



February 19, 2016

ENGROSSED HOUSE BILL No. 1298

DIGEST OF HB 1298 (Updated February 17, 2016 5:37 pm - DI 87)

Citations Affected: IC 13-18; IC 36-4; IC 36-9.

Synopsis: Annexation. Changes contiguity requirements so that property adjacent to only one side of the public highway (instead of both sides) must be: (1) within the annexing municipality's boundaries; or (2) annexed by the same ordinance that annexes the public highway. Reduces the number of required public information meetings from six meetings to three meetings if the annexation is initiated by the landowners. Specifies that a landowner whose property is subject to a valid waiver of remonstrance may not file a remonstrance to the annexation. Establishes deadlines for: (1) the county auditor to forward remonstrance petitions to the annexing municipality; and (2) the annexing municipality to forward documentation regarding valid waivers of the right of remonstrance to the county auditor. Requires a fiscal plan prepared after June 30, 2016, to include in the information provided for each parcel in the annexation territory, the existence of a known waiver of the right to remonstrate on the parcel. Allows municipalities in Kosciusko County to annex noncontiguous territory
(Continued next page)

Effective: July 1, 2015 (retroactive); July 1, 2016.

Negele, Truitt, Nisly, Errington

(SENATE SPONSORS — BRAY, BUCK)

January 12, 2016, read first time and referred to Committee on Government and Regulatory Reform.

January 19, 2016, amended, reported — Do Pass.

January 21, 2016, read second time, amended, ordered engrossed.

January 22, 2016, engrossed.

January 25, 2016, read third time, passed. Yeas 93, nays 0.

SENATE ACTION

February 8, 2016, read first time and referred to Committee on Local Government.

February 18, 2016, amended, reported favorably — Do Pass.

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that is to be used as an industrial park. Provides, with certain exceptions, with regard to annexations for which an annexation ordinance is adopted after June 30, 2016, that in order for an annexation to proceed, a municipality that initiates an annexation must file a petition with the court signed by at least: (1) 51% of the owners of land (that is not exempt from property taxes) in the territory; or (2) the owners of more than 75% in assessed valuation of land (that is not exempt from property taxes) in the territory. Provides that, for an annexation adopted after June 30, 2016: (1) if the court finds that the municipality's petition has a sufficient number of signatures, a hearing must be conducted to review the annexation and fiscal plan; and (2) allows a person that meets certain requirements to intervene as a party at the hearing to review the annexation and fiscal plan. In the case of an annexation for which an annexation ordinance is adopted after June 30, 2016, eliminates a procedure that requires the court to order an annexation not to take place if certain circumstances are shown. Provides that a settlement agreement in lieu of annexation executed after June 30, 2016, is void. Repeals a provision that allows an annexation involving an economic development project to proceed to a court hearing, even if a remonstrance is filed that would otherwise result in voiding the annexation. Makes a technical correction.



February 19, 2016

Second Regular Session of the 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1298

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 13-18-15-2, AS AMENDED BY P.L.228-2015,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2016]: Sec. 2. (a) The persons involved shall negotiate the
4 terms for connection and service under this chapter.

5 (b) If service is ordered under this chapter, a receiver of that service
6 that is located in an unincorporated area may grant a waiver to a
7 municipality providing the service. A waiver under this section:

8 (1) must waive the receiver's right of remonstrance against
9 annexation of the areas in which the service is to be provided; and

10 (2) may be one (1) of the terms for connection and service
11 described in subsection (a).

12 (c) The waiver, if granted:

13 (1) shall be noted on the deed of each property affected and
14 recorded as provided by law; and

15 (2) is considered a covenant running with the land.

16 (d) Notwithstanding any other law, a ~~waiver of the right of~~
17 ~~remonstrance executed after June 30, 2015; expires not later than~~

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1 ~~fifteen (15) years after the date the waiver was executed: a waiver of~~
 2 ~~the right to remonstrate is effective and binding on a landowner or~~
 3 ~~a successor in title only with regard to an annexation for which the~~
 4 ~~annexation ordinance was adopted before July 1, 2016.~~

5 (e) This subsection applies to any deed recorded after June 30,
 6 2015. This subsection applies only to property that is subject to a
 7 remonstrance waiver. A municipality shall, within a reasonable time
 8 after the recording of a deed to property located within the
 9 municipality, provide written notice to the property owner that a waiver
 10 of the right of remonstrance exists with respect to the property.

11 SECTION 2. IC 36-4-3-1.5, AS AMENDED BY P.L.228-2015,
 12 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 13 JULY 1, 2016]: Sec. 1.5. (a) For purposes of this chapter, territory
 14 sought to be annexed may be considered "contiguous" only if at least
 15 one-eighth (1/8) of the aggregate external boundaries of the territory
 16 coincides with the boundaries of the annexing municipality. In
 17 determining if a territory is contiguous, a strip of land less than one
 18 hundred fifty (150) feet wide that connects the annexing municipality
 19 to the territory is not considered a part of the boundaries of either the
 20 municipality or the territory.

21 (b) This subsection applies to an annexation for which an
 22 annexation ordinance is adopted after June 30, 2015. A public highway
 23 or the rights-of-way of a public highway are contiguous to:

24 (1) the municipality; or

25 (2) property in the unincorporated area adjacent to the public
 26 highway or rights-of-way of a public highway;

27 if the public highway or the rights-of-way of a public highway are
 28 contiguous under subsection (a) and one (1) of the requirements in
 29 subsection (c) is satisfied.

30 (c) A public highway or the rights-of-way of a public highway are
 31 not contiguous unless one (1) of the following requirements is met:

32 (1) The municipality obtains the written consent of the owners of
 33 all property:

34 (A) adjacent to the entire length of the part of the public
 35 highway and rights-of-way of the public highway that is being
 36 annexed; and

37 (B) not already within the corporate boundaries of the
 38 municipality.

39 A waiver of the right of remonstrance executed by a property
 40 owner or a successor in title of the property owner for sewer
 41 services or water services does not constitute written consent for
 42 purposes of this subdivision.



(2) All property adjacent to **at least one (1) side of** the entire length of the part of the public highway or rights-of-way of the public highway being annexed is already within the corporate boundaries of the municipality.

(3) All property adjacent to **at least one (1) side of** the entire length of the part of the public highway or rights-of-way of the public highway being annexed is part of the same annexation ordinance in which the public highway or rights-of-way of a public highway are being annexed.

A municipality may not annex a public highway or the rights-of-way of a public highway or annex territory adjacent to the public highway or rights-of-way of a public highway unless the requirements of this section are met.

SECTION 3. IC 36-4-3-1.7, AS ADDED BY P.L.228-2015, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 1.7. (a) This section applies only to an annexation ordinance adopted after June 30, 2015. This section does not apply to an annexation under section 5.1 of this chapter.

(b) Not earlier than six (6) months before a municipality introduces an annexation ordinance, the municipality shall conduct an outreach program to inform citizens regarding the proposed annexation. **For an annexation under section 3 or 4 of this chapter**, the outreach program must conduct at least six (6) public information meetings regarding the proposed annexation. **For an annexation under section 5 of this chapter, the outreach program must conduct at least three (3) public information meetings regarding the proposed annexation.** The public information meetings must provide citizens with the following information:

(1) Maps showing the proposed boundaries of the annexation territory.

(2) Proposed plans for extension of capital and noncapital services in the annexation territory, including proposed dates of extension.

(3) Expected fiscal impact on taxpayers in the annexation territory, including any increase in taxes and fees.

(c) The municipality shall provide notice of the dates, times, and locations of the outreach program meetings. The municipality shall publish the notice of the meetings under IC 5-3-1, including the date, time, and location of the meetings, except that notice must be published not later than thirty (30) days before the date of each meeting. The municipality shall also send notice to each owner of land within the annexation territory not later than thirty (30) days before the date of the



1 first meeting of the outreach program. The notice to landowners shall
 2 be sent by first class mail, certified mail with return receipt requested,
 3 or any other means of delivery that includes a return receipt and must
 4 include the following information:

5 (1) The notice must inform the landowner that the municipality is
 6 proposing to annex territory that includes the landowner's
 7 property.

8 (2) The municipality is conducting an outreach program for the
 9 purpose of providing information to landowners and the public
 10 regarding the proposed annexation.

11 (3) The date, time, and location of the meetings to be conducted
 12 under the outreach program.

13 (d) The notice shall be sent to the address of the landowner as listed
 14 on the tax duplicate. If the municipality provides evidence that the
 15 notice was sent: ~~by~~:

16 (1) ~~by~~ certified mail, with return receipt requested or any other
 17 means of delivery that includes a return receipt; and

18 (2) in accordance with this section;

19 it is not necessary that the landowner accept receipt of the notice. If a
 20 remonstrance is filed under section 11 of this chapter, the municipality
 21 shall file with the court proof that notices were sent to landowners
 22 under this section and proof of publication.

23 (e) The notice required under this section is in addition to any notice
 24 required under sections 2.1 and 2.2 of this chapter.

25 SECTION 4. IC 36-4-3-3.1 IS AMENDED TO READ AS
 26 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 3.1. (a) This section
 27 does not apply to an annexation under section 4(a)(2), 4(a)(3), 4(b),
 28 4(h), or 4.1 of this chapter.

29 (b) A municipality shall develop and adopt a written fiscal plan and
 30 establish a definite policy by resolution of the legislative body that
 31 meets the requirements set forth in section 13 of this chapter.

32 (c) Except as provided in subsection (d), the municipality shall
 33 establish and adopt the written fiscal plan before mailing the
 34 notification to landowners in the territory proposed to be annexed
 35 under section 2.2 of this chapter.

36 (d) In an annexation under section 5, ~~or~~ 5.1, **or 5.5** of this chapter,
 37 the municipality shall establish and adopt the written fiscal plan before
 38 adopting the annexation ordinance.

39 SECTION 5. IC 36-4-3-4, AS AMENDED BY P.L.207-2014,
 40 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 41 JULY 1, 2016]: Sec. 4. (a) The legislative body of a municipality may,
 42 by ordinance, annex any of the following:



(1) Territory that is contiguous to the municipality.

(2) Territory that is not contiguous to the municipality and is occupied by a municipally owned or operated as either of the following:

(A) An airport or landing field.

(B) A wastewater treatment facility or water treatment facility.

After a municipality annexes territory under this clause, the municipality may annex additional territory to enlarge the territory for the use of the wastewater treatment facility or water treatment facility only if the county legislative body approves that use of the additional territory by ordinance.

(3) Territory that is not contiguous to the municipality but is found by the legislative body to be occupied by:

(A) a municipally owned or regulated sanitary landfill, golf course, or hospital; or

(B) a police station of the municipality.

However, if territory annexed under subdivision (2) or (3) ceases to be used for the purpose for which the territory was annexed for at least one (1) year, the territory reverts to the jurisdiction of the unit having jurisdiction before the annexation if the unit that had jurisdiction over the territory still exists. If the unit no longer exists, the territory reverts to the jurisdiction of the unit that would currently have jurisdiction over the territory if the annexation had not occurred. The clerk of the municipality shall notify the offices required to receive notice of a disannexation under section 19 of this chapter when the territory reverts to the jurisdiction of the unit having jurisdiction before the annexation. Territory that is annexed under subdivision (2) (including territory that is enlarged under subdivision (2)(B) for the use of the wastewater treatment facility or water treatment facility) or subdivision (3) may not be considered a part of the municipality for purposes of annexing additional territory.

(b) This subsection applies to municipalities in a county having a population of:

(1) more than seventy thousand fifty (70,050) but less than seventy-one thousand (71,000);

(2) more than seventy-five thousand (75,000) but less than seventy-seven thousand (77,000);

(3) more than seventy-one thousand (71,000) but less than seventy-five thousand (75,000);

(4) more than forty-seven thousand (47,000) but less than forty-seven thousand five hundred (47,500);

(5) more than thirty-eight thousand five hundred (38,500) but less



than thirty-nine thousand (39,000);

(6) more than thirty-seven thousand (37,000) but less than thirty-seven thousand one hundred twenty-five (37,125);

(7) more than thirty-three thousand three hundred (33,300) but less than thirty-three thousand five hundred (33,500);

(8) more than twenty-three thousand three hundred (23,300) but less than twenty-four thousand (24,000);

(9) more than one hundred eighty-five thousand (185,000) but less than two hundred fifty thousand (250,000);

(10) more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000); ~~or~~

(11) more than thirty-two thousand five hundred (32,500) but less than thirty-three thousand (33,000); **or**

(12) more than seventy-seven thousand (77,000) but less than eighty thousand (80,000).

Except as provided in subsection (c), the legislative body of a municipality to which this subsection applies may, by ordinance, annex territory that is not contiguous to the municipality, has its entire area not more than two (2) miles from the municipality's boundary, is to be used for an industrial park containing one (1) or more businesses, and is either owned by the municipality or by a property owner who consents to the annexation. However, if territory annexed under this subsection is not used as an industrial park within five (5) years after the date of passage of the annexation ordinance, or if the territory ceases to be used as an industrial park for at least one (1) year, the territory reverts to the jurisdiction of the unit having jurisdiction before the annexation if the unit that had jurisdiction over the territory still exists. If the unit no longer exists, the territory reverts to the jurisdiction of the unit that would currently have jurisdiction over the territory if the annexation had not occurred. The clerk of the municipality shall notify the offices entitled to receive notice of a disannexation under section 19 of this chapter when the territory reverts to the jurisdiction of the unit having jurisdiction before the annexation.

(c) A city in a county with a population of more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000) may not annex territory as prescribed in subsection (b) until the territory is zoned by the county for industrial purposes.

(d) Notwithstanding any other law, territory that is annexed under subsection (b) or (h) is not considered a part of the municipality for the purposes of:

(1) annexing additional territory:



- 1 (A) in a county that is not described by clause (B); or
- 2 (B) in a county having a population of more than two hundred
- 3 fifty thousand (250,000) but less than two hundred seventy
- 4 thousand (270,000), unless the boundaries of the
- 5 noncontiguous territory become contiguous to the city, as
- 6 allowed by Indiana law;
- 7 (2) expanding the municipality's extraterritorial jurisdictional
- 8 area; or
- 9 (3) changing an assigned service area under IC 8-1-2.3-6(1).
- 10 (e) As used in this section, "airport" and "landing field" have the
- 11 meanings prescribed by IC 8-22-1.
- 12 (f) As used in this section, "hospital" has the meaning prescribed by
- 13 IC 16-18-2-179(b).
- 14 (g) An ordinance adopted under this section must assign the
- 15 territory annexed by the ordinance to at least one (1) municipal
- 16 legislative body district.
- 17 (h) This subsection applies to a city having a population of more
- 18 than twenty-nine thousand nine hundred (29,900) but less than
- 19 thirty-one thousand (31,000). The city legislative body may, by
- 20 ordinance, annex territory that:
- 21 (1) is not contiguous to the city;
- 22 (2) has its entire area not more than eight (8) miles from the city's
- 23 boundary;
- 24 (3) does not extend more than:
- 25 (A) one and one-half (1 1/2) miles to the west;
- 26 (B) three-fourths (3/4) mile to the east;
- 27 (C) one-half (1/2) mile to the north; or
- 28 (D) one-half (1/2) mile to the south;
- 29 of an interchange of an interstate highway (as designated by the
- 30 federal highway authorities) and a state highway (as designated
- 31 by the state highway authorities); and
- 32 (4) is owned by the city or by a property owner that consents to
- 33 the annexation.
- 34 SECTION 6. IC 36-4-3-5, AS AMENDED BY THE TECHNICAL
- 35 CORRECTIONS BILL OF THE 2016 GENERAL ASSEMBLY, IS
- 36 AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015
- 37 (RETROACTIVE)]: Sec. 5. (a) This subsection applies only to a
- 38 petition requesting annexation that is filed before July 1, 2015. If the
- 39 owners of land located outside of but contiguous to a municipality want
- 40 to have territory containing that land annexed to the municipality, they
- 41 may file with the legislative body of the municipality a petition:
- 42 (1) signed by at least:



- 1 (A) fifty-one percent (51%) of the owners of land in the
- 2 territory sought to be annexed; or
- 3 (B) the owners of seventy-five percent (75%) of the total
- 4 assessed value of the land for property tax purposes; and
- 5 (2) requesting an ordinance annexing the area described in the
- 6 petition.
- 7 (b) This subsection applies only to a petition requesting annexation
- 8 that is filed after June 30, 2015. If the owners of land located outside
- 9 of but contiguous to a municipality want to have territory containing
- 10 that land annexed to the municipality, they may file with the legislative
- 11 body of the municipality a petition that meets the following
- 12 requirements:
- 13 (1) The petition is signed by at least one (1) of the following:
- 14 (A) Fifty-one percent (51%) of the owners of land in the
- 15 territory sought to be annexed. An owner of land may not:
- 16 (i) be counted in calculating the total number of owners of
- 17 land in the annexation territory; or
- 18 (ii) have the owner's signature counted;
- 19 with regard to any single property that the owner has an
- 20 interest in that was exempt from property taxes under
- 21 IC 6-1.1-10 or any other state law for the immediately
- 22 preceding year.
- 23 (B) The owners of seventy-five percent (75%) of the total
- 24 assessed value of the land for property tax purposes. Land that
- 25 was exempt from property taxes under IC 6-1.1-10 or any
- 26 other state law for the immediately preceding year may not be
- 27 included in calculating the total assessed valuation of the land
- 28 in the annexation territory. The court may not count an owner's
- 29 signature on a petition with regard to any single property that
- 30 the owner has an interest in that was exempt from property
- 31 taxes under IC 6-1.1-10 or any other state law for the
- 32 immediately preceding year.
- 33 (2) The petition requests an ordinance annexing the area
- 34 described in the petition.
- 35 (c) The petition circulated by the landowners must include on each
- 36 page where signatures are affixed a heading that is substantially similar
- 37 to the following:
- 38 "PETITION FOR ANNEXATION INTO THE (insert whether city
- 39 or town) OF (insert name of city or town)."
- 40 (d) If the legislative body fails to pass the ordinance within one
- 41 hundred fifty (150) days after the date of filing of a petition under
- 42 subsection (a) or (b), the petitioners may file a duplicate copy of the



petition in the circuit or superior court of a county in which the territory is located, and shall include a written statement of why the annexation should take place. Notice of the proceedings, in the form of a summons, shall be served on the municipality named in the petition. The municipality is the defendant in the cause and shall appear and answer.

(e) The court shall hear and determine the petition without a jury, and shall order the proposed annexation to take place only if the evidence introduced by the parties establishes that:

- (1) essential municipal services and facilities are not available to the residents of the territory sought to be annexed;
- (2) the municipality is physically and financially able to provide municipal services to the territory sought to be annexed;
- (3) the population density of the territory sought to be annexed is at least three (3) persons per acre; and
- (4) the territory sought to be annexed is contiguous to the municipality.

If the evidence does not establish all four (4) of the preceding factors, the court shall deny the petition and dismiss the proceeding.

(f) This subsection does not apply to a town that has abolished town legislative body districts under IC 36-5-2-4.1. An ordinance adopted under this section must assign the territory annexed by the ordinance to at least one (1) municipal legislative body district.

(g) A municipality may not promote or collect signatures on an annexation petition that is filed under this section after June 30, 2016.

SECTION 7. IC 36-4-3-5.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: **Sec. 5.5. (a) This section does not apply to an annexation under section 5 or 5.1 of this chapter.**

(b) This section applies only to an annexation for which an annexation ordinance is adopted after June 30, 2016.

(c) After a municipality meets the requirements under sections 2.1 and 2.2 of this chapter, and adopts an annexation ordinance under section 3 or 4 of this chapter, in order for the annexation to proceed, the municipality must file a written petition under subsection (f), signed by owners of land in the territory proposed to be annexed who are in favor of the annexation. The petition must be signed by:

- (1) at least fifty-one percent (51%) of the owners of land:**
 - (A) not exempt from property taxes under IC 6-1.1-10 or any other state law; and**



(B) in the territory proposed to be annexed; or
 (2) the owners of more than seventy-five percent (75%) in
 assessed valuation of land:

(A) not exempt from property taxes under IC 6-1.1-10 or
 any other state law; and

(B) in the territory proposed to be annexed.

(d) The petition circulated by the municipality must include on
 each page where signatures are affixed a heading that is
 substantially similar to the following:

"PETITION FOR ANNEXATION INTO THE (insert
 whether city or town) OF (insert name of city or town)."

(e) A landowner may withdraw the landowner's signature from
 the petition not more than ten (10) days after the municipality
 adopts the annexation ordinance by providing written notice to the
 office of the clerk of the municipality. A landowner who withdraws
 the landowner's signature from the petition is considered not to
 have signed the petition for purposes of subsection (h)(2).

(f) The municipality must file the petition with the circuit or
 superior court of the county where the municipality is located not
 later than ninety (90) days after the publication of the annexation
 ordinance under section 7 of this chapter. The petition must be
 accompanied by:

(1) a copy of the ordinance; and

(2) the names and addresses of all persons who meet the
 requirements of subsection (h).

(g) On receipt of the petition, the court shall determine whether
 the petition has the necessary signatures. In determining the total
 number of landowners of the territory proposed to be annexed and
 whether signers of the petition are landowners, the names
 appearing on the tax duplicate for that territory constitute prima
 facie evidence of ownership. Only one (1) person having an interest
 in each single property, as evidenced by the tax duplicate, is
 considered a landowner for purposes of this section. If the court
 determines that the municipality's petition has a sufficient number
 of signatures, the court shall fix a time, not later than sixty (60)
 days after its determination, for a hearing on the petition.

(h) A person may intervene as a party at the hearing described
 in subsection (g) if the person:

(1) is an owner of property in the territory proposed to be
 annexed;

(2) did not sign the petition and no other owner of the
 property signed the petition filed by the municipality; and



1 **(3) appeared in person or submitted a remonstrance or other**
 2 **document objecting to the annexation into the record of the**
 3 **hearing under section 2.1 of this chapter.**

4 **The court shall give a person described in this subsection notice of**
 5 **the hearing on the petition by certified mail.**

6 SECTION 8. IC 36-4-3-7, AS AMENDED BY P.L.113-2010,
 7 SECTION 116, IS AMENDED TO READ AS FOLLOWS
 8 [EFFECTIVE JULY 1, 2016]: Sec. 7. (a) After an ordinance is adopted
 9 under section 3, 4, 5, or 5.1 of this chapter, it must be published in the
 10 manner prescribed by IC 5-3-1. Except as provided in subsection (b),
 11 (c), or (f), in the absence of remonstrance and appeal under section 11
 12 or 15.5 of this chapter, the ordinance takes effect at least ninety (90)
 13 days after its publication and upon the filing required by section 22(a)
 14 of this chapter.

15 (b) An ordinance described in subsection (d) or adopted under
 16 section 3, 4, 5, or 5.1 of this chapter may not take effect during the year
 17 preceding a year in which a federal decennial census is conducted. An
 18 ordinance that would otherwise take effect during the year preceding
 19 a year in which a federal decennial census is conducted takes effect
 20 January 1 of the year in which a federal decennial census is conducted.

21 (c) Subsections (d) and (e) apply to fire protection districts that are
 22 established after June 14, 1987.

23 (d) Except as provided in subsection (b), whenever a municipality
 24 annexes territory, all or part of which lies within a fire protection
 25 district (IC 36-8-11), the annexation ordinance (in the absence of
 26 remonstrance and appeal under section 11 or 15.5 of this chapter) **or**
 27 **in the absence of a hearing or an appeal under section 12 or 15.5 of**
 28 **this chapter (in the case of an annexation for which an annexation**
 29 **ordinance is adopted after June 30, 2016),** takes effect the second
 30 January 1 that follows the date the ordinance is adopted and upon the
 31 filing required by section 22(a) of this chapter. The municipality shall:

32 (1) provide fire protection to that territory beginning the date the
 33 ordinance is effective; and

34 (2) send written notice to the fire protection district of the date the
 35 municipality will begin to provide fire protection to the annexed
 36 territory within ten (10) days of the date the ordinance is adopted.

37 (e) If the fire protection district from which a municipality annexes
 38 territory under subsection (d) is indebted or has outstanding unpaid
 39 bonds or other obligations at the time the annexation is effective, the
 40 municipality is liable for and shall pay that indebtedness in the same
 41 ratio as the assessed valuation of the property in the annexed territory
 42 (that is part of the fire protection district) bears to the assessed



1 valuation of all property in the fire protection district, as shown by the
 2 most recent assessment for taxation before the annexation, unless the
 3 assessed property within the municipality is already liable for the
 4 indebtedness. The annexing municipality shall pay its indebtedness
 5 under this section to the board of fire trustees. If the indebtedness
 6 consists of outstanding unpaid bonds or notes of the fire protection
 7 district, the payments to the board of fire trustees shall be made as the
 8 principal or interest on the bonds or notes becomes due.

9 (f) This subsection applies to an annexation initiated by property
 10 owners under section 5.1 of this chapter in which all property owners
 11 within the area to be annexed petition the municipality to be annexed.
 12 Subject to subsections (b) and (d), and in the absence of an appeal
 13 under section 15.5 of this chapter, an annexation ordinance takes effect
 14 at least thirty (30) days after its publication and upon the filing required
 15 by section 22(a) of this chapter.

16 SECTION 9. IC 36-4-3-11, AS AMENDED BY P.L.228-2015,
 17 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 18 JULY 1, 2016]: Sec. 11. (a) This subsection applies only to an
 19 annexation for which an annexation ordinance was adopted before July
 20 1, 2015. Except as provided in section 5.1(i) of this chapter and
 21 subsections (e) and (f), whenever territory is annexed by a municipality
 22 under this chapter, the annexation may be appealed by filing with the
 23 circuit or superior court of a county in which the annexed territory is
 24 located a written remonstrance signed by:

25 (1) at least sixty-five percent (65%) of the owners of land in the
 26 annexed territory; or

27 (2) the owners of more than seventy-five percent (75%) in
 28 assessed valuation of the land in the annexed territory.

29 The remonstrance must be filed within ninety (90) days after the
 30 publication of the annexation ordinance under section 7 of this chapter,
 31 must be accompanied by a copy of that ordinance, and must state the
 32 reason why the annexation should not take place.

33 (b) This subsection applies only to an annexation for which an
 34 annexation ordinance was adopted before July 1, 2015. On receipt of
 35 the remonstrance, the court shall determine whether the remonstrance
 36 has the necessary signatures. In determining the total number of
 37 landowners of the annexed territory and whether signers of the
 38 remonstrance are landowners, the names appearing on the tax duplicate
 39 for that territory constitute prima facie evidence of ownership. Only
 40 one (1) person having an interest in each single property, as evidenced
 41 by the tax duplicate, is considered a landowner for purposes of this
 42 section.



(c) This subsection applies only to an annexation for which an annexation ordinance was adopted before July 1, 2015. If the court determines that the remonstrance is sufficient, the court shall fix a time, within sixty (60) days after the court's determination, for a hearing on the remonstrance. Notice of the proceedings, in the form of a summons, shall be served on the annexing municipality. The municipality is the defendant in the cause and shall appear and answer.

(d) This subsection applies only to an annexation for which an annexation ordinance was adopted after June 30, 2015. If the requirements of section 11.3(c) ~~or (after December 31, 2016) section 11.4~~ of this chapter are met, the annexation may be appealed by filing with the circuit or superior court of a county in which the annexed territory is located:

- (1) the signed remonstrances filed with the county auditor;
- (2) the county auditor's certification under section ~~11.2(g)~~ **11.2(i)** of this chapter;
- (3) the annexation ordinance; and
- (4) a statement of the reason why the annexation should not take place.

The remonstrance must be filed with the court not later than fifteen (15) business days after the date the county auditor files the certificate with the legislative body under section ~~11.2(g)~~ **11.2(i)** of this chapter. After a remonstrance petition is filed with the court, any person who signed a remonstrance may file with the court a verified, written revocation of the person's opposition to the annexation.

(e) If an annexation is initiated by property owners under section 5.1 of this chapter and all property owners within the area to be annexed petition the municipality to be annexed, a remonstrance to the annexation may not be filed under this section.

(f) This subsection applies only to an annexation for which an annexation ordinance is adopted before July 1, 2015. This subsection applies if:

- (1) the territory to be annexed consists of not more than one hundred (100) parcels; and
- (2) eighty percent (80%) of the boundary of the territory proposed to be annexed is contiguous to the municipality.

An annexation may be appealed by filing with the circuit or superior court of a county in which the annexed territory is located a written remonstrance signed by at least seventy-five percent (75%) of the owners of land in the annexed territory as determined under subsection (b).

(g) This section applies only to an annexation for which the



1 **annexation ordinance was adopted before July 1, 2016.**

2 SECTION 10. IC 36-4-3-11.1, AS ADDED BY P.L.228-2015,
3 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2016]: Sec. 11.1. (a) This section applies only to an
5 annexation ordinance adopted after June 30, 2015, **and before July 1,**
6 **2016.**

7 (b) After a municipality adopts an annexation ordinance in
8 accordance with all applicable notice and hearing requirements under
9 this chapter, the annexation may not proceed unless the annexing
10 municipality completes the procedures set forth in this section.

11 (c) The proper officers of the municipality must give notice of the
12 applicability of the remonstrance process by providing notice by:

13 (1) publication in accordance with IC 5-3-1; and

14 (2) first class mail or certified mail with return receipt requested,
15 or any other means of delivery that includes a return receipt;
16 to the circuit court clerk and to owners of real property described in
17 section 2.2 of this chapter. Notice under this section must be published
18 and mailed or delivered on the same date that notice of the adoption of
19 the annexation ordinance is published under section 7 of this chapter.

20 (d) The notice of the applicability of the remonstrance process under
21 subsection (c) must state the following:

22 (1) Any owners of real property within the area proposed to be
23 annexed who want to remonstrate against the proposed
24 annexation must complete and file remonstrance petitions in
25 compliance with this chapter. The notice must state:

26 (A) that remonstrance petitions must be filed not later than
27 ninety (90) days after the date that notice of the adoption of the
28 annexation ordinance was published under section 7 of this
29 chapter; and

30 (B) the last date in accordance with clause (A) that
31 remonstrance petitions must be filed with the county auditor
32 to be valid.

33 (2) A remonstrance petition may be signed at the locations
34 provided by the municipality under subsection (e). The notice
35 must provide the following information regarding each location:

36 (A) The address of the location.

37 (B) The dates and hours during which a remonstrance petition
38 may be signed at the location.

39 (e) Beginning the day after publication of the notice under
40 subsection (c) and ending not later than ninety (90) days after
41 publication of the notice under subsection (c), the municipality shall
42 provide both of the following:



(1) At least one (1) location in the offices of the municipality where a person may sign a remonstrance petition during regular business hours.

(2) At least one (1) additional location that is available for at least five (5) days, where a person may sign a remonstrance petition. The location must meet the following requirements:

(A) The location must be in a public building:

(i) owned or leased by the state or a political subdivision, including a public library, community center, or parks and recreation building; and

(ii) located within the boundaries of the municipality or the annexation territory.

(B) The location must be open according to the following:

(i) On a day that the location is open on a weekday, the location must be open at a minimum from 5 p.m. to 9 p.m.

(ii) On a day that the location is open on a Saturday or Sunday, the location must be open at least four (4) hours during the period from 9 a.m. to 5 p.m.

(f) An additional location may not be open on a day that is a legal holiday. At any location and during the hours that a remonstrance petition may be signed, the municipality shall have a person present:

(1) to witness the signing of remonstrance petitions; and

(2) who shall swear and affirm before a notary public that the person witnessed each person sign the remonstrance petition.

SECTION 11. IC 36-4-3-11.2, AS ADDED BY P.L.228-2015, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 11.2. (a) This section applies only to an annexation ordinance adopted after June 30, 2015, **and before July 1, 2016.**

(b) A remonstrance petition may be filed by an owner of real property that:

(1) is within the area to be annexed; and

(2) was not exempt from property taxes under IC 6-1.1-10 or any other state law for the immediately preceding year.

(c) A remonstrance petition must comply with the following in order to be effective:

(1) Each signature on a remonstrance petition must be dated, and the date of the signature may not be earlier than the date on which the remonstrance forms may be issued by the county auditor under subsection (e)(7).

(2) Each person who signs a remonstrance petition must indicate the address of the real property owned by the person in the area



1 to be annexed.

2 (3) A remonstrance petition must be verified in compliance with
3 subsection (e).

4 (d) The state board of accounts shall design the remonstrance forms
5 to be used solely in the remonstrance process described in this section.
6 The state board of accounts shall provide the forms to the county
7 auditor in an electronic format that permits the county auditor to copy
8 or reproduce the forms using:

9 (1) the county auditor's own equipment; or

10 (2) a commercial copying service.

11 The annexing municipality shall reimburse the county auditor for the
12 cost of reproducing the remonstrance forms.

13 (e) The county auditor's office shall issue remonstrance forms
14 accompanied by instructions detailing all of the following
15 requirements:

16 (1) The closing date for the remonstrance period.

17 (2) Only one (1) person having an interest in each single property
18 as evidenced by the tax duplicate is considered an owner of
19 property and may sign a remonstrance petition. A person is
20 entitled to sign a petition only one (1) time in a remonstrance
21 process, regardless of whether the person owns more than one (1)
22 parcel of real property.

23 (3) An individual may not be:

24 (A) compensated for; or

25 (B) reimbursed for expenses incurred in;
26 circulating a remonstrance petition and obtaining signatures.

27 (4) The remonstrance petition may be executed in several
28 counterparts, the total of which constitutes the remonstrance
29 petition. An affidavit of the person circulating a counterpart must
30 be attached to the counterpart. The affidavit must state that each
31 signature appearing on the counterpart was affixed in the person's
32 presence and is the true and lawful signature of the signer. The
33 affidavit must be notarized.

34 (5) A remonstrance petition that is not executed in counterparts
35 must be verified by the person signing the petition in the manner
36 prescribed by the state board of accounts and notarized.

37 (6) A remonstrance petition may be delivered to the county
38 auditor's office in person or by:

39 (A) certified mail, return receipt requested; or

40 (B) any other means of delivery that includes a return receipt.

41 The remonstrance petition must be postmarked not later than the
42 closing date for the remonstrance period.



(7) The county auditor's office may not issue a remonstrance petition earlier than the day that notice is published under section 11.1 of this chapter. The county auditor's office shall certify the date of issuance on each remonstrance petition. Any person may pick up additional copies of the remonstrance petition to distribute to other persons.

(8) A person who signs a remonstrance petition may withdraw the person's signature from a remonstrance petition before a remonstrance petition is filed with the county auditor by filing a verified request to remove the person's name from the remonstrance petition. Names may not be added to a remonstrance petition after the remonstrance petition is filed with the county auditor.

(f) The county auditor shall prepare and update weekly a list of the persons who have signed a remonstrance petition. The list must include a statement that the list includes all persons who have signed a remonstrance petition as of a particular date, and does not represent a list of persons certified by the county auditor as actual landowners in the annexation territory using the auditor's current tax records under subsection (g). The county auditor shall post the list in the office of the county auditor. The list is a public record under IC 5-14-3.

(g) Not later than fifteen (15) business days after receiving a remonstrance petition, the county auditor's office shall make a final determination of the number of owners of real property within the territory to be annexed who signed the remonstrance, using the auditor's current tax records as provided in section 2.2 of this chapter. The county auditor shall file a certificate with the legislative body of the annexing municipality certifying the number of property owners not later than five (5) business days after making the determination.

SECTION 12. IC 36-4-3-11.3, AS ADDED BY P.L.228-2015, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 11.3. (a) This section applies only to an annexation ordinance adopted after June 30, 2015, **and before July 1, 2016.**

(b) An annexation ordinance is void if a written remonstrance petition is signed by one (1) of the following:

(1) At least sixty-five percent (65%) of the owners of land in the annexed territory. An owner of land may not:

(A) be counted in calculating the total number of owners of land in the annexation territory; or

(B) have the owner's signature counted on a remonstrance; with regard to any single property that an owner has an interest in



that was exempt from property taxes under IC 6-1.1-10 or any other state law for the immediately preceding year.

(2) The owners of at least eighty percent (80%) in assessed valuation of the land in the annexed territory. Land that was exempt from property taxes under IC 6-1.1-10 or any other state law for the immediately preceding year may not be included in calculating the total assessed valuation of the land in the annexation territory. The court may not count the owner's signature on a remonstrance with regard to any single property that the owner has an interest in that was exempt from property taxes under IC 6-1.1-10 or any other state law for the immediately preceding year.

(c) The annexation may be appealed to the court under section 11 of this chapter, if a written remonstrance is signed by one (1) of the following:

(1) At least fifty-one percent (51%) but less than sixty-five percent (65%) of the owners of land. An owner of land may not:

(A) be counted in calculating the total number of owners of land in the annexation territory; or

(B) have the owner's signature counted on a remonstrance; with regard to any single property that the owner has an interest in that was exempt from property taxes under IC 6-1.1-10 or any other state law for the immediately preceding year.

(2) The owners of at least sixty percent (60%) but less than eighty percent (80%) in assessed valuation of land in the annexed territory. Land that was exempt from property taxes under IC 6-1.1-10 or any other state law for the immediately preceding year may not be included in calculating the total assessed valuation of the land in the annexation territory. The court may not count an owner's signature on a remonstrance with regard to any single property that the owner has an interest in that was exempt from property taxes under IC 6-1.1-10 or any other state law for the immediately preceding year.

SECTION 13. IC 36-4-3-11.4 IS REPEALED [EFFECTIVE JULY 1, 2016]. Sec. 11.4. (a) This section applies only to an annexation that the meets all of the following requirements:

(1) The annexation ordinance is adopted after December 31, 2016.

(2) Notwithstanding the contiguity requirements of section 1.5 of this chapter, at least one-tenth (1/10) of the aggregate external boundaries of the territory sought to be annexed coincides with the boundaries of:



- 1 (A) the municipality; and
- 2 (B) the site of an economic development project.
- 3 (b) As used in this section, "economic development project" means
- 4 any project developed by the municipality that meets all of the
- 5 following requirements:
- 6 (1) The annexing municipality determines that the project will:
- 7 (A) promote significant opportunities for the gainful
- 8 employment of its citizens;
- 9 (B) attract a major new business enterprise to the municipality;
- 10 or
- 11 (C) retain or expand a significant business enterprise within
- 12 the municipality.
- 13 (2) The project involves expenditures by the annexing
- 14 municipality for any of the following:
- 15 (A) Land acquisition; interests in land; site improvements;
- 16 infrastructure improvements; buildings; or structures.
- 17 (B) Rehabilitation; renovation; and enlargement of buildings
- 18 and structures.
- 19 (C) Machinery; equipment; furnishings; or facilities.
- 20 (D) Substance removal or remedial action.
- 21 (c) Notwithstanding section 11.3(b) of this chapter, even if a
- 22 remonstrance has enough signatures to satisfy the requirements of
- 23 section 11.3(b) of this chapter, the annexation ordinance is not void and
- 24 may be appealed to the court under section 11 of this chapter, if all of
- 25 the following requirements are met:
- 26 (1) The economic development project site needs the following
- 27 capital services that the municipality is lawfully able to provide:
- 28 (A) water;
- 29 (B) sewer;
- 30 (C) gas; or
- 31 (D) any combination of the capital services described in
- 32 clauses (A) through (C).
- 33 (2) The municipality finds that it is in the municipality's best
- 34 interest to annex the annexation territory in order to extend;
- 35 construct, or operate the capital services that are provided to the
- 36 economic development project site.
- 37 (3) Before the date the annexation ordinance is adopted; a
- 38 taxpayer whose business will occupy the economic development
- 39 project site has done at least one (1) of the following:
- 40 (A) Filed a statement of benefits under IC 6-1.1-12.1 with the
- 41 designating body for the annexing municipality for a deduction
- 42 or abatement.



- 1 (B) Entered into an agreement with the Indiana economic
 2 development corporation for a credit under IC 6-3.1-13.
 3 (d) If the economic development project:
 4 (1) has not commenced within twelve (12) months after the date
 5 the annexation ordinance is adopted; or
 6 (2) is not completed within thirty-six (36) months after the date
 7 the annexation ordinance is adopted;
 8 the annexation territory is disannexed from the municipality and reverts
 9 to the jurisdiction of the unit having jurisdiction before the annexation.
 10 For purposes of this subsection, a ~~an~~ economic development project is
 11 considered to have commenced on the day that the physical erection,
 12 installation, alteration, repair, or remodeling of a building or structure
 13 commences on the site of the economic development project.
 14 SECTION 14. IC 36-4-3-12, AS AMENDED BY P.L.113-2010,
 15 SECTION 117, IS AMENDED TO READ AS FOLLOWS
 16 [EFFECTIVE JULY 1, 2016]: Sec. 12. (a) The circuit or superior court
 17 shall:
 18 (1) on the date fixed under section 11 **(in the case of an**
 19 **annexation for which an annexation ordinance is adopted**
 20 **before July 1, 2016) or 5.5** of this chapter, hear and determine
 21 the remonstrance **(in the case of an annexation for which an**
 22 **annexation ordinance is adopted before July 1, 2016) or**
 23 **petition** without a jury; and
 24 (2) without delay, enter judgment on the question of the
 25 annexation according to the evidence that either party may
 26 introduce.
 27 (b) **This subsection does not apply to an annexation under**
 28 **section 7.1 of this chapter.** If the court enters judgment in favor of the
 29 annexation, the annexation may not take effect during the year
 30 preceding the year in which a federal decennial census is conducted.
 31 An annexation that would otherwise take effect during the year
 32 preceding a year in which a federal decennial census is conducted takes
 33 effect January 1 of the year in which a federal decennial census is
 34 conducted.
 35 SECTION 15. IC 36-4-3-13, AS AMENDED BY P.L.228-2015,
 36 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 37 JULY 1, 2016]: Sec. 13. (a) Except as provided in subsection (e), at the
 38 hearing under section 12 of this chapter, the court shall order a
 39 proposed annexation to take place if the following requirements are
 40 met:
 41 (1) The requirements of either subsection (b) or (c).
 42 (2) The requirements of subsection (d).



- 1 (3) The requirements of subsection (i).
- 2 (b) The requirements of this subsection are met if the evidence
- 3 establishes the following:
- 4 (1) That the territory sought to be annexed is contiguous to the
- 5 municipality.
- 6 (2) One (1) of the following:
- 7 (A) The resident population density of the territory sought to
- 8 be annexed is at least three (3) persons per acre.
- 9 (B) Sixty percent (60%) of the territory is subdivided.
- 10 (C) The territory is zoned for commercial, business, or
- 11 industrial uses.
- 12 (c) The requirements of this subsection are met if the evidence
- 13 establishes one (1) of the following:
- 14 (1) That the territory sought to be annexed is:
- 15 (A) contiguous to the municipality as required by section 1.5
- 16 of this chapter, except that at least one-fourth (1/4), instead of
- 17 one-eighth (1/8), of the aggregate external boundaries of the
- 18 territory sought to be annexed must coincide with the
- 19 boundaries of the municipality; and
- 20 (B) needed and can be used by the municipality for its
- 21 development in the reasonably near future.
- 22 (2) This subdivision applies only to an annexation for which an
- 23 annexation ordinance is adopted after December 31, 2016. That
- 24 the territory sought to be annexed involves an economic
- 25 development project and the requirements of section 11.4 of this
- 26 chapter are met.
- 27 (d) The requirements of this subsection are met if the evidence
- 28 establishes that the municipality has developed and adopted a written
- 29 fiscal plan and has established a definite policy, by resolution of the
- 30 legislative body as set forth in section 3.1 of this chapter. The fiscal
- 31 plan must show the following:
- 32 (1) The cost estimates of planned services to be furnished to the
- 33 territory to be annexed. The plan must present itemized estimated
- 34 costs for each municipal department or agency.
- 35 (2) The method or methods of financing the planned services. The
- 36 plan must explain how specific and detailed expenses will be
- 37 funded and must indicate the taxes, grants, and other funding to
- 38 be used.
- 39 (3) The plan for the organization and extension of services. The
- 40 plan must detail the specific services that will be provided and the
- 41 dates the services will begin.
- 42 (4) That planned services of a noncapital nature, including police



1 protection, fire protection, street and road maintenance, and other
 2 noncapital services normally provided within the corporate
 3 boundaries, will be provided to the annexed territory within one
 4 (1) year after the effective date of annexation and that they will be
 5 provided in a manner equivalent in standard and scope to those
 6 noncapital services provided to areas within the corporate
 7 boundaries regardless of similar topography, patterns of land use,
 8 and population density.

9 (5) That services of a capital improvement nature, including street
 10 construction, street lighting, sewer facilities, water facilities, and
 11 stormwater drainage facilities, will be provided to the annexed
 12 territory within three (3) years after the effective date of the
 13 annexation in the same manner as those services are provided to
 14 areas within the corporate boundaries, regardless of similar
 15 topography, patterns of land use, and population density, and in
 16 a manner consistent with federal, state, and local laws,
 17 procedures, and planning criteria.

18 (6) This subdivision applies to a fiscal plan prepared after June
 19 30, 2015. The estimated effect of the proposed annexation on
 20 taxpayers in each of the political subdivisions to which the
 21 proposed annexation applies, including the expected tax rates, tax
 22 levies, expenditure levels, service levels, and annual debt service
 23 payments in those political subdivisions for four (4) years after
 24 the effective date of the annexation.

25 (7) This subdivision applies to a fiscal plan prepared after June
 26 30, 2015. The estimated effect the proposed annexation will have
 27 on municipal finances, specifically how municipal tax revenues
 28 will be affected by the annexation for four (4) years after the
 29 effective date of the annexation.

30 (8) This subdivision applies to a fiscal plan prepared after June
 31 30, 2015. Any estimated effects on political subdivisions in the
 32 county that are not part of the annexation and on taxpayers
 33 located in those political subdivisions for four (4) years after the
 34 effective date of the annexation.

35 (9) This subdivision applies to a fiscal plan prepared after June
 36 30, 2015. A list of all parcels of property in the annexation
 37 territory and the following information regarding each parcel:

38 (A) The name of the owner of the parcel.

39 (B) The parcel identification number.

40 (C) The most recent assessed value of the parcel.

41 (e) **This subsection applies only to an annexation for which an**
 42 **annexation ordinance is adopted before July 1, 2016.** At the hearing



under section 12 of this chapter, the court shall do the following:

(1) Consider evidence on the conditions listed in subdivision (2).

(2) Order a proposed annexation not to take place if the court finds that all of the following conditions that are applicable to the annexation exist in the territory proposed to be annexed:

(A) This clause applies only to an annexation for which an annexation ordinance was adopted before July 1, 2015. The following services are adequately furnished by a provider other than the municipality seeking the annexation:

(i) Police and fire protection.

(ii) Street and road maintenance.

(B) The annexation will have a significant financial impact on the residents or owners of land. The court may not consider:

(i) the personal finances; or

(ii) the business finances;

of a resident or owner of land. The personal and business financial records of the residents or owners of land, including state, federal, and local income tax returns, may not be subject to a subpoena or discovery proceedings.

(C) The annexation is not in the best interests of the owners of land in the territory proposed to be annexed as set forth in subsection (f).

(D) This clause applies only to an annexation for which an annexation ordinance is adopted before July 1, 2015. One (1) of the following opposes the annexation:

(i) At least sixty-five percent (65%) of the owners of land in the territory proposed to be annexed.

(ii) The owners of more than seventy-five percent (75%) in assessed valuation of the land in the territory proposed to be annexed.

Evidence of opposition may be expressed by any owner of land in the territory proposed to be annexed.

(E) This clause applies only to an annexation for which an annexation ordinance is adopted after June 30, 2015. One (1) of the following opposes the annexation:

(i) At least fifty-one percent (51%) of the owners of land in the territory proposed to be annexed.

(ii) The owners of more than sixty percent (60%) in assessed valuation of the land in the territory proposed to be annexed.

The remonstrance petitions filed with the court under section 11 of this chapter are evidence of the number of owners of land that oppose the annexation, minus any written revocations



of remonstrances that are filed with the court under section 11 of this chapter.

(F) This clause applies only to an annexation for which an annexation ordinance is adopted before July 1, 2015. This clause applies only to an annexation in which eighty percent (80%) of the boundary of the territory proposed to be annexed is contiguous to the municipality and the territory consists of not more than one hundred (100) parcels. At least seventy-five percent (75%) of the owners of land in the territory proposed to be annexed oppose the annexation as determined under section 11(b) of this chapter.

(f) This subsection applies only to an annexation for which an annexation ordinance is adopted before July 1, 2016. The municipality under subsection (e)(2)(C) bears the burden of proving that the annexation is in the best interests of the owners of land in the territory proposed to be annexed. In determining this issue, the court may consider whether the municipality has extended sewer or water services to the entire territory to be annexed:

- (1) within the three (3) years preceding the date of the introduction of the annexation ordinance; or
- (2) under a contract in lieu of annexation entered into under IC 36-4-3-21.

The court may not consider the provision of water services as a result of an order by the Indiana utility regulatory commission to constitute the provision of water services to the territory to be annexed.

(g) The most recent:

- (1) federal decennial census;
- (2) federal special census;
- (3) special tabulation; or
- (4) corrected population count;

shall be used as evidence of resident population density for purposes of subsection (b)(2)(A), but this evidence may be rebutted by other evidence of population density.

(h) A municipality that prepares a fiscal plan after June 30, 2015, must comply with this subsection. A municipality may not amend the fiscal plan after the date that a remonstrance is filed with the court under section 11 of this chapter, unless amendment of the fiscal plan is consented to by at least sixty-five percent (65%) of the persons who signed the remonstrance petition.

(i) The municipality must submit proof that the municipality has complied with:

- (A) the outreach program requirements and notice requirements



of section 1.7 of this chapter; and

(B) the requirements of section 11.1 of this chapter.

SECTION 16. IC 36-4-3-15.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 15.3. (a) As used in this section, "prohibition against annexation" means that a municipality may not make further attempts to annex certain territory or any part of that territory.

(b) As used in this section, "settlement agreement" means a written court approved settlement of a dispute involving annexation under this chapter between a municipality and remonstrators.

(c) Under a settlement agreement between the annexing municipality and either:

(1) seventy-five percent (75%) or more of all landowners participating in the remonstrance; or

(2) the owners of more than seventy-five percent (75%) in assessed valuation of the land owned by all landowners participating in the remonstrance;

the parties may mutually agree to a prohibition against annexation of all or part of the territory by the municipality for a period not to exceed twenty (20) years. The settlement agreement may address issues and bind the parties to matters relating to the provision by a municipality of planned services of a noncapital nature and services of a capital improvement nature (as described in section 13(d) of this chapter), in addition to a prohibition against annexation. The settlement agreement is binding upon the successors, heirs, and assigns of the parties to the agreement. However, the settlement agreement may be amended or revised periodically on further agreement between the annexing municipality and landowners who meet the qualifications of subsection (c)(1) or (c)(2).

(d) A settlement agreement executed after June 30, 2016, is void.

SECTION 17. IC 36-4-3-22, AS AMENDED BY P.L.228-2015, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 22. (a) The clerk of the municipality shall file:

(1) each annexation ordinance against which:

(A) a remonstrance **(in the case of an annexation for which an annexation ordinance is adopted before July 1, 2016)** or an appeal has not been filed during the period permitted under this chapter; or

(B) a remonstrance was filed without a sufficient number of signatures to meet the requirements of section 11.3(c) of this chapter, in the case of an annexation for which an annexation ordinance was adopted after June 30, 2015, **and before July**



- 1 **1, 2016; or**
- 2 (2) the certified copy of a final and unappealable judgment
- 3 ordering an annexation to take place;
- 4 with the county auditor, circuit court clerk, and board of registration (if
- 5 a board of registration exists) of each county in which the annexed
- 6 territory is located, the office of the secretary of state, and the office of
- 7 census data established by IC 2-5-1.1-12.2. The clerk of the
- 8 municipality shall record each annexation ordinance adopted under this
- 9 chapter in the office of the county recorder of each county in which the
- 10 annexed territory is located.
- 11 (b) The ordinance or judgment must be filed and recorded no later
- 12 than ninety (90) days after:
- 13 (1) the expiration of the period permitted for a remonstrance **(in**
- 14 **the case of an annexation for which an annexation ordinance**
- 15 **is adopted before July 1, 2016)** or appeal;
- 16 (2) the delivery of a certified order under section 15 of this
- 17 chapter; or
- 18 (3) the date the county auditor files the written certification with
- 19 the legislative body under section 11.2 of this chapter, in the case
- 20 of an annexation described in subsection (a)(1)(B).
- 21 (c) Failure to record the annexation ordinance as provided in
- 22 subsection (a) does not invalidate the ordinance.
- 23 (d) The county auditor shall forward a copy of any annexation
- 24 ordinance filed under this section to the following:
- 25 (1) The county highway department of each county in which the
- 26 lots or lands affected are located.
- 27 (2) The county surveyor of each county in which the lots or lands
- 28 affected are located.
- 29 (3) Each plan commission, if any, that lost or gained jurisdiction
- 30 over the annexed territory.
- 31 (4) The sheriff of each county in which the lots or lands affected
- 32 are located.
- 33 (5) The township trustee of each township that lost or gained
- 34 jurisdiction over the annexed territory.
- 35 (6) The office of the secretary of state.
- 36 (7) The office of census data established by IC 2-5-1.1-12.2.
- 37 (e) The county auditor may require the clerk of the municipality to
- 38 furnish an adequate number of copies of the annexation ordinance or
- 39 may charge the clerk a fee for photoreproduction of the ordinance. The
- 40 county auditor shall notify the office of the secretary of state and the
- 41 office of census data established by IC 2-5-1.1-12.2 of the date that the
- 42 annexation ordinance is effective under this chapter.



(f) The county auditor or county surveyor shall, upon determining that an annexation ordinance has become effective under this chapter, indicate the annexation upon the property taxation records maintained in the office of the auditor or the office of the county surveyor.

SECTION 18. IC 36-9-22-2, AS AMENDED BY P.L.228-2015, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 2. (a) The power of the municipal works board to fix the terms of a contract under this section applies to contracts for the installation of sewage works that have not been finally approved or accepted for full maintenance and operation by the municipality on July 1, 1979.

(b) The works board of a municipality may contract with owners of real property for the construction of sewage works within the municipality or within four (4) miles outside its corporate boundaries in order to provide service for the area in which the real property of the owners is located. The contract must provide, for a period of not to exceed fifteen (15) years, for the payment to the owners and their assigns by any owner of real property who:

(1) did not contribute to the original cost of the sewage works; and

(2) subsequently taps into, uses, or deposits sewage or storm waters in the sewage works or any lateral sewers connected to them;

of a fair pro rata share of the cost of the construction of the sewage works, subject to the rules of the board and notwithstanding any other law relating to the functions of local governmental entities. However, the contract does not apply to any owner of real property who is not a party to the contract unless the contract or (after June 30, 2013) a signed memorandum of the contract has been recorded in the office of the recorder of the county in which the real property of the owner is located before the owner taps into or connects to the sewers and facilities. The board may provide that the fair pro rata share of the cost of construction includes interest at a rate not exceeding the amount of interest allowed on judgments, and the interest shall be computed from the date the sewage works are approved until the date payment is made to the municipality.

(c) The contract must include, as part of the consideration running to the municipality, the release of the right of the parties to the contract and their successors in title to remonstrate against pending or future annexations by the municipality of the area served by the sewage works. Any person tapping into or connecting to the sewage works contracted for is considered to waive the person's rights to remonstrate



1 against the annexation of the area served by the sewage works.
 2 **However, a waiver of the right to remonstrate is effective and**
 3 **binding on a landowner or a successor in title only with regard to**
 4 **an annexation for which the annexation ordinance was adopted**
 5 **before July 1, 2016.**

6 (d) This subsection does not affect any rights or liabilities accrued,
 7 or proceedings begun before July 1, 2013. Those rights, liabilities, and
 8 proceedings continue and shall be imposed and enforced under prior
 9 law as if this subsection had not been enacted. For contracts executed
 10 after June 30, 2013, the release of the right to remonstrate is binding on
 11 a successor in title to a party to the contract only **with regard to an**
 12 **annexation for which the annexation ordinance was adopted before**
 13 **July 1, 2016**, if the successor in title:

14 (1) has actual notice of the release; or

15 (2) has constructive notice of the release because the contract, or
 16 a signed memorandum of the contract stating the release, has been
 17 recorded in the chain of title of the property.

18 (e) Subsection (c) does not apply to a landowner if all of the
 19 following conditions apply:

20 (1) The landowner is required to connect to the sewage works
 21 because a person other than the landowner has polluted or
 22 contaminated the area.

23 (2) The costs of extension of or connection to the sewage works
 24 are paid by a person other than the landowner or the municipality.

25 (f) Subsection (c) does not apply to a landowner who taps into,
 26 connects to, or is required to tap into or connect to the sewage works
 27 of a municipality only because the municipality provides wholesale
 28 sewage service (as defined in IC 8-1-2-61.7) to another municipality
 29 that provides sewage service to the landowner.

30 (g) Notwithstanding any other law, ~~a waiver of the right of~~
 31 ~~remonstrance executed after June 30, 2015, expires not later than~~
 32 ~~fifteen (15) years after the date the waiver was executed: a waiver of~~
 33 **the right to remonstrate is effective and binding on a landowner or**
 34 **a successor in title only with regard to an annexation for which the**
 35 **annexation ordinance was adopted before July 1, 2016.**

36 (h) This subsection applies to any deed recorded after June 30,
 37 2015. This subsection applies only to property that is subject to a
 38 remonstrance waiver. A municipality shall provide written notice to
 39 any successor in title to property within a reasonable time after the
 40 deed is recorded, that a waiver of the right of remonstrance exists with
 41 respect to the property.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Government and Regulatory Reform, to which was referred House Bill 1298, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 12, delete "This subsection".

Page 1, delete line 13.

Page 1, line 14, delete "4 of this chapter."

Page 2, line 42, delete "two" and insert "**three (3)**".

Page 3, line 1, delete "(2)".

Page 3, between lines 41 and 42, begin a new paragraph and insert:
 "SECTION 3. IC 36-4-3-4, AS AMENDED BY P.L.207-2014,
 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 JULY 1, 2016]: Sec. 4. (a) The legislative body of a municipality may,
 by ordinance, annex any of the following:

(1) Territory that is contiguous to the municipality.

(2) Territory that is not contiguous to the municipality and is
 occupied by a municipally owned or operated as either of the
 following:

(A) An airport or landing field.

(B) A wastewater treatment facility or water treatment facility.
 After a municipality annexes territory under this clause, the
 municipality may annex additional territory to enlarge the
 territory for the use of the wastewater treatment facility or
 water treatment facility only if the county legislative body
 approves that use of the additional territory by ordinance.

(3) Territory that is not contiguous to the municipality but is
 found by the legislative body to be occupied by:

(A) a municipally owned or regulated sanitary landfill, golf
 course, or hospital; or

(B) a police station of the municipality.

However, if territory annexed under subdivision (2) or (3) ceases to be
 used for the purpose for which the territory was annexed for at least
 one (1) year, the territory reverts to the jurisdiction of the unit having
 jurisdiction before the annexation if the unit that had jurisdiction over
 the territory still exists. If the unit no longer exists, the territory reverts
 to the jurisdiction of the unit that would currently have jurisdiction over
 the territory if the annexation had not occurred. The clerk of the
 municipality shall notify the offices required to receive notice of a
 disannexation under section 19 of this chapter when the territory
 reverts to the jurisdiction of the unit having jurisdiction before the



annexation. Territory that is annexed under subdivision (2) (including territory that is enlarged under subdivision (2)(B) for the use of the wastewater treatment facility or water treatment facility) or subdivision (3) may not be considered a part of the municipality for purposes of annexing additional territory.

(b) This subsection applies to municipalities in a county having a population of:

- (1) more than seventy thousand fifty (70,050) but less than seventy-one thousand (71,000);
- (2) more than seventy-five thousand (75,000) but less than seventy-seven thousand (77,000);
- (3) more than seventy-one thousand (71,000) but less than seventy-five thousand (75,000);
- (4) more than forty-seven thousand (47,000) but less than forty-seven thousand five hundred (47,500);
- (5) more than thirty-eight thousand five hundred (38,500) but less than thirty-nine thousand (39,000);
- (6) more than thirty-seven thousand (37,000) but less than thirty-seven thousand one hundred twenty-five (37,125);
- (7) more than thirty-three thousand three hundred (33,300) but less than thirty-three thousand five hundred (33,500);
- (8) more than twenty-three thousand three hundred (23,300) but less than twenty-four thousand (24,000);
- (9) more than one hundred eighty-five thousand (185,000) but less than two hundred fifty thousand (250,000);
- (10) more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000); ~~or~~
- (11) more than thirty-two thousand five hundred (32,500) but less than thirty-three thousand (33,000); **or**
- (12) more than seventy-seven thousand (77,000) but less than eighty thousand (80,000).**

Except as provided in subsection (c), the legislative body of a municipality to which this subsection applies may, by ordinance, annex territory that is not contiguous to the municipality, has its entire area not more than two (2) miles from the municipality's boundary, is to be used for an industrial park containing one (1) or more businesses, and is either owned by the municipality or by a property owner who consents to the annexation. However, if territory annexed under this subsection is not used as an industrial park within five (5) years after the date of passage of the annexation ordinance, or if the territory ceases to be used as an industrial park for at least one (1) year, the territory reverts to the jurisdiction of the unit having jurisdiction before



the annexation if the unit that had jurisdiction over the territory still exists. If the unit no longer exists, the territory reverts to the jurisdiction of the unit that would currently have jurisdiction over the territory if the annexation had not occurred. The clerk of the municipality shall notify the offices entitled to receive notice of a disannexation under section 19 of this chapter when the territory reverts to the jurisdiction of the unit having jurisdiction before the annexation.

(c) A city in a county with a population of more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000) may not annex territory as prescribed in subsection (b) until the territory is zoned by the county for industrial purposes.

(d) Notwithstanding any other law, territory that is annexed under subsection (b) or (h) is not considered a part of the municipality for the purposes of:

(1) annexing additional territory:

(A) in a county that is not described by clause (B); or

(B) in a county having a population of more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000), unless the boundaries of the noncontiguous territory become contiguous to the city, as allowed by Indiana law;

(2) expanding the municipality's extraterritorial jurisdictional area; or

(3) changing an assigned service area under IC 8-1-2.3-6(1).

(e) As used in this section, "airport" and "landing field" have the meanings prescribed by IC 8-22-1.

(f) As used in this section, "hospital" has the meaning prescribed by IC 16-18-2-179(b).

(g) An ordinance adopted under this section must assign the territory annexed by the ordinance to at least one (1) municipal legislative body district.

(h) This subsection applies to a city having a population of more than twenty-nine thousand nine hundred (29,900) but less than thirty-one thousand (31,000). The city legislative body may, by ordinance, annex territory that:

(1) is not contiguous to the city;

(2) has its entire area not more than eight (8) miles from the city's boundary;

(3) does not extend more than:

(A) one and one-half (1 1/2) miles to the west;

(B) three-fourths (3/4) mile to the east;



- (C) one-half (1/2) mile to the north; or
 - (D) one-half (1/2) mile to the south;
- of an interchange of an interstate highway (as designated by the federal highway authorities) and a state highway (as designated by the state highway authorities); and
- (4) is owned by the city or by a property owner that consents to the annexation."

Page 8, after line 4, begin a new paragraph and insert:

"SECTION 6. IC 36-4-3-13, AS AMENDED BY P.L.228-2015, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 13. (a) Except as provided in subsection (e), at the hearing under section 12 of this chapter, the court shall order a proposed annexation to take place if the following requirements are met:

- (1) The requirements of either subsection (b) or (c).
 - (2) The requirements of subsection (d).
 - (3) The requirements of subsection (i).
- (b) The requirements of this subsection are met if the evidence establishes the following:
- (1) That the territory sought to be annexed is contiguous to the municipality.
 - (2) One (1) of the following:
 - (A) The resident population density of the territory sought to be annexed is at least three (3) persons per acre.
 - (B) Sixty percent (60%) of the territory is subdivided.
 - (C) The territory is zoned for commercial, business, or industrial uses.
- (c) The requirements of this subsection are met if the evidence establishes one (1) of the following:
- (1) That the territory sought to be annexed is:
 - (A) contiguous to the municipality as required by section 1.5 of this chapter, except that at least one-fourth (1/4), instead of one-eighth (1/8), of the aggregate external boundaries of the territory sought to be annexed must coincide with the boundaries of the municipality; and
 - (B) needed and can be used by the municipality for its development in the reasonably near future.
 - (2) This subdivision applies only to an annexation for which an annexation ordinance is adopted after December 31, 2016. That the territory sought to be annexed involves an economic development project and the requirements of section 11.4 of this chapter are met.



(d) The requirements of this subsection are met if the evidence establishes that the municipality has developed and adopted a written fiscal plan and has established a definite policy, by resolution of the legislative body as set forth in section 3.1 of this chapter. The fiscal plan must show the following:

- (1) The cost estimates of planned services to be furnished to the territory to be annexed. The plan must present itemized estimated costs for each municipal department or agency.
- (2) The method or methods of financing the planned services. The plan must explain how specific and detailed expenses will be funded and must indicate the taxes, grants, and other funding to be used.
- (3) The plan for the organization and extension of services. The plan must detail the specific services that will be provided and the dates the services will begin.
- (4) That planned services of a noncapital nature, including police protection, fire protection, street and road maintenance, and other noncapital services normally provided within the corporate boundaries, will be provided to the annexed territory within one (1) year after the effective date of annexation and that they will be provided in a manner equivalent in standard and scope to those noncapital services provided to areas within the corporate boundaries regardless of similar topography, patterns of land use, and population density.
- (5) That services of a capital improvement nature, including street construction, street lighting, sewer facilities, water facilities, and stormwater drainage facilities, will be provided to the annexed territory within three (3) years after the effective date of the annexation in the same manner as those services are provided to areas within the corporate boundaries, regardless of similar topography, patterns of land use, and population density, and in a manner consistent with federal, state, and local laws, procedures, and planning criteria.
- (6) This subdivision applies to a fiscal plan prepared after June 30, 2015. The estimated effect of the proposed annexation on taxpayers in each of the political subdivisions to which the proposed annexation applies, including the expected tax rates, tax levies, expenditure levels, service levels, and annual debt service payments in those political subdivisions for four (4) years after the effective date of the annexation.
- (7) This subdivision applies to a fiscal plan prepared after June 30, 2015. The estimated effect the proposed annexation will have



on municipal finances, specifically how municipal tax revenues will be affected by the annexation for four (4) years after the effective date of the annexation.

(8) This subdivision applies to a fiscal plan prepared after June 30, 2015. Any estimated effects on political subdivisions in the county that are not part of the annexation and on taxpayers located in those political subdivisions for four (4) years after the effective date of the annexation.

(9) This subdivision applies to a fiscal plan prepared after June 30, 2015. A list of all parcels of property in the annexation territory and the following information regarding each parcel:

(A) The name of the owner of the parcel.

(B) The parcel identification number.

(C) The most recent assessed value of the parcel.

(D) The existence of a known waiver of the right to remonstrate on the parcel. This clause applies only to a fiscal plan prepared after June 30, 2016.

(e) At the hearing under section 12 of this chapter, the court shall do the following:

(1) Consider evidence on the conditions listed in subdivision (2).

(2) Order a proposed annexation not to take place if the court finds that all of the following conditions that are applicable to the annexation exist in the territory proposed to be annexed:

(A) This clause applies only to an annexation for which an annexation ordinance was adopted before July 1, 2015. The following services are adequately furnished by a provider other than the municipality seeking the annexation:

(i) Police and fire protection.

(ii) Street and road maintenance.

(B) The annexation will have a significant financial impact on the residents or owners of land. The court may not consider:

(i) the personal finances; or

(ii) the business finances;

of a resident or owner of land. The personal and business financial records of the residents or owners of land, including state, federal, and local income tax returns, may not be subject to a subpoena or discovery proceedings.

(C) The annexation is not in the best interests of the owners of land in the territory proposed to be annexed as set forth in subsection (f).

(D) This clause applies only to an annexation for which an annexation ordinance is adopted before July 1, 2015. One (1)



of the following opposes the annexation:

- (i) At least sixty-five percent (65%) of the owners of land in the territory proposed to be annexed.
- (ii) The owners of more than seventy-five percent (75%) in assessed valuation of the land in the territory proposed to be annexed.

Evidence of opposition may be expressed by any owner of land in the territory proposed to be annexed.

(E) This clause applies only to an annexation for which an annexation ordinance is adopted after June 30, 2015. One (1) of the following opposes the annexation:

- (i) At least fifty-one percent (51%) of the owners of land in the territory proposed to be annexed.
- (ii) The owners of more than sixty percent (60%) in assessed valuation of the land in the territory proposed to be annexed.

The remonstrance petitions filed with the court under section 11 of this chapter are evidence of the number of owners of land that oppose the annexation, minus any written revocations of remonstrances that are filed with the court under section 11 of this chapter.

(F) This clause applies only to an annexation for which an annexation ordinance is adopted before July 1, 2015. This clause applies only to an annexation in which eighty percent (80%) of the boundary of the territory proposed to be annexed is contiguous to the municipality and the territory consists of not more than one hundred (100) parcels. At least seventy-five percent (75%) of the owners of land in the territory proposed to be annexed oppose the annexation as determined under section 11(b) of this chapter.

(f) The municipality under subsection (e)(2)(C) bears the burden of proving that the annexation is in the best interests of the owners of land in the territory proposed to be annexed. In determining this issue, the court may consider whether the municipality has extended sewer or water services to the entire territory to be annexed:

- (1) within the three (3) years preceding the date of the introduction of the annexation ordinance; or
- (2) under a contract in lieu of annexation entered into under IC 36-4-3-21.

The court may not consider the provision of water services as a result of an order by the Indiana utility regulatory commission to constitute the provision of water services to the territory to be annexed.

(g) The most recent:



- (1) federal decennial census;
- (2) federal special census;
- (3) special tabulation; or
- (4) corrected population count;

shall be used as evidence of resident population density for purposes of subsection (b)(2)(A), but this evidence may be rebutted by other evidence of population density.

(h) A municipality that prepares a fiscal plan after June 30, 2015, must comply with this subsection. A municipality may not amend the fiscal plan after the date that a remonstrance is filed with the court under section 11 of this chapter, unless amendment of the fiscal plan is consented to by at least sixty-five percent (65%) of the persons who signed the remonstrance petition.

(i) The municipality must submit proof that the municipality has complied with:

- (A) the outreach program requirements and notice requirements of section 1.7 of this chapter; and
- (B) the requirements of section 11.1 of this chapter."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1298 as introduced.)

MAHAN

Committee Vote: yeas 11, nays 0.

HOUSE MOTION

Mr. Speaker: I move that House Bill 1298 be amended to read as follows:

Page 10, line 16, delete "three (3)" and insert "**five (5)**".

(Reference is to HB 1298 as printed January 19, 2016.)

LYNESS



COMMITTEE REPORT

Madam President: The Senate Committee on Local Government, to which was referred House Bill No. 1298, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 13-18-15-2, AS AMENDED BY P.L.228-2015, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 2. (a) The persons involved shall negotiate the terms for connection and service under this chapter.

(b) If service is ordered under this chapter, a receiver of that service that is located in an unincorporated area may grant a waiver to a municipality providing the service. A waiver under this section:

- (1) must waive the receiver's right of remonstrance against annexation of the areas in which the service is to be provided; and
- (2) may be one (1) of the terms for connection and service described in subsection (a).

(c) The waiver, if granted:

- (1) shall be noted on the deed of each property affected and recorded as provided by law; and
- (2) is considered a covenant running with the land.

(d) Notwithstanding any other law, ~~a waiver of the right of remonstrance executed after June 30, 2015, expires not later than fifteen (15) years after the date the waiver was executed: a waiver of the right to remonstrate is effective and binding on a landowner or a successor in title only with regard to an annexation for which the annexation ordinance was adopted before July 1, 2016.~~

(e) This subsection applies to any deed recorded after June 30, 2015. This subsection applies only to property that is subject to a remonstrance waiver. A municipality shall, within a reasonable time after the recording of a deed to property located within the municipality, provide written notice to the property owner that a waiver of the right of remonstrance exists with respect to the property."

Page 2, line 37, delete "sections" and insert "**section**".

Page 3, between lines 39 and 40, begin a new paragraph and insert:

"SECTION 4. IC 36-4-3-3.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 3.1. (a) This section does not apply to an annexation under section 4(a)(2), 4(a)(3), 4(b), 4(h), or 4.1 of this chapter.

(b) A municipality shall develop and adopt a written fiscal plan and



establish a definite policy by resolution of the legislative body that meets the requirements set forth in section 13 of this chapter.

(c) Except as provided in subsection (d), the municipality shall establish and adopt the written fiscal plan before mailing the notification to landowners in the territory proposed to be annexed under section 2.2 of this chapter.

(d) In an annexation under section 5, ~~or 5.1~~, **or 5.5** of this chapter, the municipality shall establish and adopt the written fiscal plan before adopting the annexation ordinance."

Page 6, between lines 34 and 35, begin a new paragraph and insert:

"SECTION 6. IC 36-4-3-5, AS AMENDED BY THE TECHNICAL CORRECTIONS BILL OF THE 2016 GENERAL ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015 (RETROACTIVE)]: Sec. 5. (a) This subsection applies only to a petition requesting annexation that is filed before July 1, 2015. If the owners of land located outside of but contiguous to a municipality want to have territory containing that land annexed to the municipality, they may file with the legislative body of the municipality a petition:

(1) signed by at least:

- (A) fifty-one percent (51%) of the owners of land in the territory sought to be annexed; or
- (B) the owners of seventy-five percent (75%) of the total assessed value of the land for property tax purposes; and

(2) requesting an ordinance annexing the area described in the petition.

(b) This subsection applies only to a petition requesting annexation that is filed after June 30, 2015. If the owners of land located outside of but contiguous to a municipality want to have territory containing that land annexed to the municipality, they may file with the legislative body of the municipality a petition that meets the following requirements:

(1) The petition is signed by at least one (1) of the following:

- (A) Fifty-one percent (51%) of the owners of land in the territory sought to be annexed. An owner of land may not:
 - (i) be counted in calculating the total number of owners of land in the annexation territory; or
 - (ii) have the owner's signature counted;

with regard to any single property that the owner has an interest in that was exempt from property taxes under IC 6-1.1-10 or any other state law for the immediately preceding year.

(B) The owners of seventy-five percent (75%) of the total



assessed value of the land for property tax purposes. Land that was exempt from property taxes under IC 6-1.1-10 or any other state law for the immediately preceding year may not be included in calculating the total assessed valuation of the land in the annexation territory. The court may not count an owner's signature on a petition with regard to any single property that the owner has an interest in that was exempt from property taxes under IC 6-1.1-10 or any other state law for the immediately preceding year.

(2) The petition requests an ordinance annexing the area described in the petition.

(c) The petition circulated by the landowners must include on each page where signatures are affixed a heading that is substantially similar to the following:

"PETITION FOR ANNEXATION INTO THE (insert whether city or town) OF (insert name of city or town).".

(d) If the legislative body fails to pass the ordinance within one hundred fifty (150) days after the date of filing of a petition under subsection (a) **or (b)**, the petitioners may file a duplicate copy of the petition in the circuit or superior court of a county in which the territory is located, and shall include a written statement of why the annexation should take place. Notice of the proceedings, in the form of a summons, shall be served on the municipality named in the petition. The municipality is the defendant in the cause and shall appear and answer.

(e) The court shall hear and determine the petition without a jury, and shall order the proposed annexation to take place only if the evidence introduced by the parties establishes that:

- (1) essential municipal services and facilities are not available to the residents of the territory sought to be annexed;
- (2) the municipality is physically and financially able to provide municipal services to the territory sought to be annexed;
- (3) the population density of the territory sought to be annexed is at least three (3) persons per acre; and
- (4) the territory sought to be annexed is contiguous to the municipality.

If the evidence does not establish all four (4) of the preceding factors, the court shall deny the petition and dismiss the proceeding.

(f) This subsection does not apply to a town that has abolished town legislative body districts under IC 36-5-2-4.1. An ordinance adopted under this section must assign the territory annexed by the ordinance to at least one (1) municipal legislative body district.



(g) A municipality may not promote or collect signatures on an annexation petition that is filed under this section after June 30, 2016.

SECTION 7. IC 36-4-3-5.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: **Sec. 5.5. (a) This section does not apply to an annexation under section 5 or 5.1 of this chapter.**

(b) This section applies only to an annexation for which an annexation ordinance is adopted after June 30, 2016.

(c) After a municipality meets the requirements under sections 2.1 and 2.2 of this chapter, and adopts an annexation ordinance under section 3 or 4 of this chapter, in order for the annexation to proceed, the municipality must file a written petition under subsection (f), signed by owners of land in the territory proposed to be annexed who are in favor of the annexation. The petition must be signed by:

- (1) at least fifty-one percent (51%) of the owners of land:**
 - (A) not exempt from property taxes under IC 6-1.1-10 or any other state law; and**
 - (B) in the territory proposed to be annexed; or**
- (2) the owners of more than seventy-five percent (75%) in assessed valuation of land:**
 - (A) not exempt from property taxes under IC 6-1.1-10 or any other state law; and**
 - (B) in the territory proposed to be annexed.**

(d) The petition circulated by the municipality must include on each page where signatures are affixed a heading that is substantially similar to the following:

"PETITION FOR ANNEXATION INTO THE (insert whether city or town) OF (insert name of city or town)."

(e) A landowner may withdraw the landowner's signature from the petition not more than ten (10) days after the municipality adopts the annexation ordinance by providing written notice to the office of the clerk of the municipality. A landowner who withdraws the landowner's signature from the petition is considered not to have signed the petition for purposes of subsection (h)(2).

(f) The municipality must file the petition with the circuit or superior court of the county where the municipality is located not later than ninety (90) days after the publication of the annexation ordinance under section 7 of this chapter. The petition must be accompanied by:

- (1) a copy of the ordinance; and**



(2) the names and addresses of all persons who meet the requirements of subsection (h).

(g) On receipt of the petition, the court shall determine whether the petition has the necessary signatures. In determining the total number of landowners of the territory proposed to be annexed and whether signers of the petition are landowners, the names appearing on the tax duplicate for that territory constitute prima facie evidence of ownership. Only one (1) person having an interest in each single property, as evidenced by the tax duplicate, is considered a landowner for purposes of this section. If the court determines that the municipality's petition has a sufficient number of signatures, the court shall fix a time, not later than sixty (60) days after its determination, for a hearing on the petition.

(h) A person may intervene as a party at the hearing described in subsection (g) if the person:

- (1) is an owner of property in the territory proposed to be annexed;**
- (2) did not sign the petition and no other owner of the property signed the petition filed by the municipality; and**
- (3) appeared in person or submitted a remonstrance or other document objecting to the annexation into the record of the hearing under section 2.1 of this chapter.**

The court shall give a person described in this subsection notice of the hearing on the petition by certified mail.

SECTION 8. IC 36-4-3-7, AS AMENDED BY P.L.113-2010, SECTION 116, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 7. (a) After an ordinance is adopted under section 3, 4, 5, or 5.1 of this chapter, it must be published in the manner prescribed by IC 5-3-1. Except as provided in subsection (b), (c), or (f), in the absence of remonstrance and appeal under section 11 or 15.5 of this chapter, the ordinance takes effect at least ninety (90) days after its publication and upon the filing required by section 22(a) of this chapter.

(b) An ordinance described in subsection (d) or adopted under section 3, 4, 5, or 5.1 of this chapter may not take effect during the year preceding a year in which a federal decennial census is conducted. An ordinance that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January 1 of the year in which a federal decennial census is conducted.

(c) Subsections (d) and (e) apply to fire protection districts that are established after June 14, 1987.

(d) Except as provided in subsection (b), whenever a municipality



annexes territory, all or part of which lies within a fire protection district (IC 36-8-11), the annexation ordinance (in the absence of remonstrance and appeal under section 11 or 15.5 of this chapter) **or in the absence of a hearing or an appeal under section 12 or 15.5 of this chapter (in the case of an annexation for which an annexation ordinance is adopted after June 30, 2016)**, takes effect the second January 1 that follows the date the ordinance is adopted and upon the filing required by section 22(a) of this chapter. The municipality shall:

(1) provide fire protection to that territory beginning the date the ordinance is effective; and

(2) send written notice to the fire protection district of the date the municipality will begin to provide fire protection to the annexed territory within ten (10) days of the date the ordinance is adopted.

(e) If the fire protection district from which a municipality annexes territory under subsection (d) is indebted or has outstanding unpaid bonds or other obligations at the time the annexation is effective, the municipality is liable for and shall pay that indebtedness in the same ratio as the assessed valuation of the property in the annexed territory (that is part of the fire protection district) bears to the assessed valuation of all property in the fire protection district, as shown by the most recent assessment for taxation before the annexation, unless the assessed property within the municipality is already liable for the indebtedness. The annexing municipality shall pay its indebtedness under this section to the board of fire trustees. If the indebtedness consists of outstanding unpaid bonds or notes of the fire protection district, the payments to the board of fire trustees shall be made as the principal or interest on the bonds or notes becomes due.

(f) This subsection applies to an annexation initiated by property owners under section 5.1 of this chapter in which all property owners within the area to be annexed petition the municipality to be annexed. Subject to subsections (b) and (d), and in the absence of an appeal under section 15.5 of this chapter, an annexation ordinance takes effect at least thirty (30) days after its publication and upon the filing required by section 22(a) of this chapter."

Page 7, line 29, strike "or (after December 31, 2016) section".

Page 7, line 30, strike "11.4".

Page 8, between lines 18 and 19, begin a new paragraph and insert:

"(g) This section applies only to an annexation for which the annexation ordinance was adopted before July 1, 2016."

Page 8, delete lines 19 through 42, begin a new paragraph and insert:

"SECTION 9. IC 36-4-3-11.1, AS ADDED BY P.L.228-2015,



SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 11.1. (a) This section applies only to an annexation ordinance adopted after June 30, 2015, **and before July 1, 2016.**

(b) After a municipality adopts an annexation ordinance in accordance with all applicable notice and hearing requirements under this chapter, the annexation may not proceed unless the annexing municipality completes the procedures set forth in this section.

(c) The proper officers of the municipality must give notice of the applicability of the remonstrance process by providing notice by:

- (1) publication in accordance with IC 5-3-1; and
- (2) first class mail or certified mail with return receipt requested, or any other means of delivery that includes a return receipt;

to the circuit court clerk and to owners of real property described in section 2.2 of this chapter. Notice under this section must be published and mailed or delivered on the same date that notice of the adoption of the annexation ordinance is published under section 7 of this chapter.

(d) The notice of the applicability of the remonstrance process under subsection (c) must state the following:

- (1) Any owners of real property within the area proposed to be annexed who want to remonstrate against the proposed annexation must complete and file remonstrance petitions in compliance with this chapter. The notice must state:

- (A) that remonstrance petitions must be filed not later than ninety (90) days after the date that notice of the adoption of the annexation ordinance was published under section 7 of this chapter; and
- (B) the last date in accordance with clause (A) that remonstrance petitions must be filed with the county auditor to be valid.

- (2) A remonstrance petition may be signed at the locations provided by the municipality under subsection (e). The notice must provide the following information regarding each location:

- (A) The address of the location.
- (B) The dates and hours during which a remonstrance petition may be signed at the location.

(e) Beginning the day after publication of the notice under subsection (c) and ending not later than ninety (90) days after publication of the notice under subsection (c), the municipality shall provide both of the following:

- (1) At least one (1) location in the offices of the municipality where a person may sign a remonstrance petition during regular



business hours.

(2) At least one (1) additional location that is available for at least five (5) days, where a person may sign a remonstrance petition. The location must meet the following requirements:

(A) The location must be in a public building:

- (i) owned or leased by the state or a political subdivision, including a public library, community center, or parks and recreation building; and
- (ii) located within the boundaries of the municipality or the annexation territory.

(B) The location must be open according to the following:

- (i) On a day that the location is open on a weekday, the location must be open at a minimum from 5 p.m. to 9 p.m.
- (ii) On a day that the location is open on a Saturday or Sunday, the location must be open at least four (4) hours during the period from 9 a.m. to 5 p.m.

(f) An additional location may not be open on a day that is a legal holiday. At any location and during the hours that a remonstrance petition may be signed, the municipality shall have a person present:

- (1) to witness the signing of remonstrance petitions; and
- (2) who shall swear and affirm before a notary public that the person witnessed each person sign the remonstrance petition.

SECTION 10. IC 36-4-3-11.2, AS ADDED BY P.L.228-2015, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 11.2. (a) This section applies only to an annexation ordinance adopted after June 30, 2015, **and before July 1, 2016.**

(b) A remonstrance petition may be filed by an owner of real property that:

- (1) is within the area to be annexed; and
- (2) was not exempt from property taxes under IC 6-1.1-10 or any other state law for the immediately preceding year.

(c) A remonstrance petition must comply with the following in order to be effective:

- (1) Each signature on a remonstrance petition must be dated, and the date of the signature may not be earlier than the date on which the remonstrance forms may be issued by the county auditor under subsection (e)(7).
- (2) Each person who signs a remonstrance petition must indicate the address of the real property owned by the person in the area to be annexed.
- (3) A remonstrance petition must be verified in compliance with



subsection (e).

(d) The state board of accounts shall design the remonstrance forms to be used solely in the remonstrance process described in this section. The state board of accounts shall provide the forms to the county auditor in an electronic format that permits the county auditor to copy or reproduce the forms using:

- (1) the county auditor's own equipment; or
- (2) a commercial copying service.

The annexing municipality shall reimburse the county auditor for the cost of reproducing the remonstrance forms.

(e) The county auditor's office shall issue remonstrance forms accompanied by instructions detailing all of the following requirements:

- (1) The closing date for the remonstrance period.
- (2) Only one (1) person having an interest in each single property as evidenced by the tax duplicate is considered an owner of property and may sign a remonstrance petition. A person is entitled to sign a petition only one (1) time in a remonstrance process, regardless of whether the person owns more than one (1) parcel of real property.
- (3) An individual may not be:
 - (A) compensated for; or
 - (B) reimbursed for expenses incurred in; circulating a remonstrance petition and obtaining signatures.
- (4) The remonstrance petition may be executed in several counterparts, the total of which constitutes the remonstrance petition. An affidavit of the person circulating a counterpart must be attached to the counterpart. The affidavit must state that each signature appearing on the counterpart was affixed in the person's presence and is the true and lawful signature of the signer. The affidavit must be notarized.
- (5) A remonstrance petition that is not executed in counterparts must be verified by the person signing the petition in the manner prescribed by the state board of accounts and notarized.
- (6) A remonstrance petition may be delivered to the county auditor's office in person or by:
 - (A) certified mail, return receipt requested; or
 - (B) any other means of delivery that includes a return receipt.
 The remonstrance petition must be postmarked not later than the closing date for the remonstrance period.
- (7) The county auditor's office may not issue a remonstrance petition earlier than the day that notice is published under section



11.1 of this chapter. The county auditor's office shall certify the date of issuance on each remonstrance petition. Any person may pick up additional copies of the remonstrance petition to distribute to other persons.

(8) A person who signs a remonstrance petition may withdraw the person's signature from a remonstrance petition before a remonstrance petition is filed with the county auditor by filing a verified request to remove the person's name from the remonstrance petition. Names may not be added to a remonstrance petition after the remonstrance petition is filed with the county auditor.

(f) The county auditor shall prepare and update weekly a list of the persons who have signed a remonstrance petition. The list must include a statement that the list includes all persons who have signed a remonstrance petition as of a particular date, and does not represent a list of persons certified by the county auditor as actual landowners in the annexation territory using the auditor's current tax records under subsection (g). The county auditor shall post the list in the office of the county auditor. The list is a public record under IC 5-14-3.

(g) Not later than fifteen (15) business days after receiving a remonstrance petition, the county auditor's office shall make a final determination of the number of owners of real property within the territory to be annexed who signed the remonstrance, using the auditor's current tax records as provided in section 2.2 of this chapter. The county auditor shall file a certificate with the legislative body of the annexing municipality certifying the number of property owners not later than five (5) business days after making the determination.

SECTION 11. IC 36-4-3-11.3, AS ADDED BY P.L.228-2015, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 11.3. (a) This section applies only to an annexation ordinance adopted after June 30, 2015, **and before July 1, 2016.**

(b) An annexation ordinance is void if a written remonstrance petition is signed by one (1) of the following:

(1) At least sixty-five percent (65%) of the owners of land in the annexed territory. An owner of land may not:

(A) be counted in calculating the total number of owners of land in the annexation territory; or

(B) have the owner's signature counted on a remonstrance; with regard to any single property that an owner has an interest in that was exempt from property taxes under IC 6-1.1-10 or any other state law for the immediately preceding year.



(2) The owners of at least eighty percent (80%) in assessed valuation of the land in the annexed territory. Land that was exempt from property taxes under IC 6-1.1-10 or any other state law for the immediately preceding year may not be included in calculating the total assessed valuation of the land in the annexation territory. The court may not count the owner's signature on a remonstrance with regard to any single property that the owner has an interest in that was exempt from property taxes under IC 6-1.1-10 or any other state law for the immediately preceding year.

(c) The annexation may be appealed to the court under section 11 of this chapter, if a written remonstrance is signed by one (1) of the following:

(1) At least fifty-one percent (51%) but less than sixty-five percent (65%) of the owners of land. An owner of land may not:

(A) be counted in calculating the total number of owners of land in the annexation territory; or

(B) have the owner's signature counted on a remonstrance; with regard to any single property that the owner has an interest in that was exempt from property taxes under IC 6-1.1-10 or any other state law for the immediately preceding year.

(2) The owners of at least sixty percent (60%) but less than eighty percent (80%) in assessed valuation of land in the annexed territory. Land that was exempt from property taxes under IC 6-1.1-10 or any other state law for the immediately preceding year may not be included in calculating the total assessed valuation of the land in the annexation territory. The court may not count an owner's signature on a remonstrance with regard to any single property that the owner has an interest in that was exempt from property taxes under IC 6-1.1-10 or any other state law for the immediately preceding year.

SECTION 12. IC 36-4-3-11.4 IS REPEALED [EFFECTIVE JULY 1, 2016]. ~~Sec. 11.4: (a) This section applies only to an annexation that the meets all of the following requirements:~~

~~(1) The annexation ordinance is adopted after December 31, 2016.~~

~~(2) Notwithstanding the contiguity requirements of section 1-5 of this chapter, at least one-tenth (1/10) of the aggregate external boundaries of the territory sought to be annexed coincides with the boundaries of:~~

~~(A) the municipality; and~~

~~(B) the site of an economic development project.~~



(b) As used in this section, "economic development project" means any project developed by the municipality that meets all of the following requirements:

- (1) The annexing municipality determines that the project will:
 - (A) promote significant opportunities for the gainful employment of its citizens;
 - (B) attract a major new business enterprise to the municipality;
 - or
 - (C) retain or expand a significant business enterprise within the municipality.
- (2) The project involves expenditures by the annexing municipality for any of the following:
 - (A) Land acquisition; interests in land; site improvements; infrastructure improvements; buildings; or structures.
 - (B) Rehabilitation; renovation; and enlargement of buildings and structures.
 - (C) Machinery; equipment; furnishings; or facilities.
 - (D) Substance removal or remedial action.

(c) Notwithstanding section 11.3(b) of this chapter, even if a remonstrance has enough signatures to satisfy the requirements of section 11.3(b) of this chapter, the annexation ordinance is not void and may be appealed to the court under section 11 of this chapter, if all of the following requirements are met:

- (1) The economic development project site needs the following capital services that the municipality is lawfully able to provide:
 - (A) water;
 - (B) sewer;
 - (C) gas; or
 - (D) any combination of the capital services described in clauses (A) through (C).
- (2) The municipality finds that it is in the municipality's best interest to annex the annexation territory in order to extend; construct; or operate the capital services that are provided to the economic development project site.
- (3) Before the date the annexation ordinance is adopted; a taxpayer whose business will occupy the economic development project site has done at least one (1) of the following:
 - (A) Filed a statement of benefits under IC 6-1.1-12.1 with the designating body for the annexing municipality for a deduction or abatement.
 - (B) Entered into an agreement with the Indiana economic development corporation for a credit under IC 6-3.1-13.



(d) If the economic development project:

- (1) has not commenced within twelve (12) months after the date the annexation ordinance is adopted; or
- (2) is not completed within thirty-six (36) months after the date the annexation ordinance is adopted;

the annexation territory is disannexed from the municipality and reverts to the jurisdiction of the unit having jurisdiction before the annexation. For purposes of this subsection, a ~~an~~ economic development project is considered to have commenced on the day that the physical erection, installation, alteration, repair, or remodeling of a building or structure commences on the site of the economic development project.

SECTION 13. IC 36-4-3-12, AS AMENDED BY P.L.113-2010, SECTION 117, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 12. (a) The circuit or superior court shall:

- (1) on the date fixed under section 11 **(in the case of an annexation for which an annexation ordinance is adopted before July 1, 2016) or 5.5** of this chapter, hear and determine the remonstrance **(in the case of an annexation for which an annexation ordinance is adopted before July 1, 2016) or petition** without a jury; and
- (2) without delay, enter judgment on the question of the annexation according to the evidence that either party may introduce.

(b) **This subsection does not apply to an annexation under section 7.1 of this chapter.** If the court enters judgment in favor of the annexation, the annexation may not take effect during the year preceding the year in which a federal decennial census is conducted. An annexation that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January 1 of the year in which a federal decennial census is conducted.

SECTION 14. IC 36-4-3-13, AS AMENDED BY P.L.228-2015, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 13. (a) Except as provided in subsection (e), at the hearing under section 12 of this chapter, the court shall order a proposed annexation to take place if the following requirements are met:

- (1) The requirements of either subsection (b) or (c).
- (2) The requirements of subsection (d).
- (3) The requirements of subsection (i).
- (b) The requirements of this subsection are met if the evidence



establishes the following:

- (1) That the territory sought to be annexed is contiguous to the municipality.
- (2) One (1) of the following:
 - (A) The resident population density of the territory sought to be annexed is at least three (3) persons per acre.
 - (B) Sixty percent (60%) of the territory is subdivided.
 - (C) The territory is zoned for commercial, business, or industrial uses.
- (c) The requirements of this subsection are met if the evidence establishes one (1) of the following:
 - (1) That the territory sought to be annexed is:
 - (A) contiguous to the municipality as required by section 1.5 of this chapter, except that at least one-fourth (1/4), instead of one-eighth (1/8), of the aggregate external boundaries of the territory sought to be annexed must coincide with the boundaries of the municipality; and
 - (B) needed and can be used by the municipality for its development in the reasonably near future.
 - (2) This subdivision applies only to an annexation for which an annexation ordinance is adopted after December 31, 2016. That the territory sought to be annexed involves an economic development project and the requirements of section 11.4 of this chapter are met.
- (d) The requirements of this subsection are met if the evidence establishes that the municipality has developed and adopted a written fiscal plan and has established a definite policy, by resolution of the legislative body as set forth in section 3.1 of this chapter. The fiscal plan must show the following:
 - (1) The cost estimates of planned services to be furnished to the territory to be annexed. The plan must present itemized estimated costs for each municipal department or agency.
 - (2) The method or methods of financing the planned services. The plan must explain how specific and detailed expenses will be funded and must indicate the taxes, grants, and other funding to be used.
 - (3) The plan for the organization and extension of services. The plan must detail the specific services that will be provided and the dates the services will begin.
 - (4) That planned services of a noncapital nature, including police protection, fire protection, street and road maintenance, and other noncapital services normally provided within the corporate



boundaries, will be provided to the annexed territory within one (1) year after the effective date of annexation and that they will be provided in a manner equivalent in standard and scope to those noncapital services provided to areas within the corporate boundaries regardless of similar topography, patterns of land use, and population density.

(5) That services of a capital improvement nature, including street construction, street lighting, sewer facilities, water facilities, and stormwater drainage facilities, will be provided to the annexed territory within three (3) years after the effective date of the annexation in the same manner as those services are provided to areas within the corporate boundaries, regardless of similar topography, patterns of land use, and population density, and in a manner consistent with federal, state, and local laws, procedures, and planning criteria.

(6) This subdivision applies to a fiscal plan prepared after June 30, 2015. The estimated effect of the proposed annexation on taxpayers in each of the political subdivisions to which the proposed annexation applies, including the expected tax rates, tax levies, expenditure levels, service levels, and annual debt service payments in those political subdivisions for four (4) years after the effective date of the annexation.

(7) This subdivision applies to a fiscal plan prepared after June 30, 2015. The estimated effect the proposed annexation will have on municipal finances, specifically how municipal tax revenues will be affected by the annexation for four (4) years after the effective date of the annexation.

(8) This subdivision applies to a fiscal plan prepared after June 30, 2015. Any estimated effects on political subdivisions in the county that are not part of the annexation and on taxpayers located in those political subdivisions for four (4) years after the effective date of the annexation.

(9) This subdivision applies to a fiscal plan prepared after June 30, 2015. A list of all parcels of property in the annexation territory and the following information regarding each parcel:

(A) The name of the owner of the parcel.

(B) The parcel identification number.

(C) The most recent assessed value of the parcel.

(e) **This subsection applies only to an annexation for which an annexation ordinance is adopted before July 1, 2016.** At the hearing under section 12 of this chapter, the court shall do the following:

(1) Consider evidence on the conditions listed in subdivision (2).



(2) Order a proposed annexation not to take place if the court finds that all of the following conditions that are applicable to the annexation exist in the territory proposed to be annexed:

(A) This clause applies only to an annexation for which an annexation ordinance was adopted before July 1, 2015. The following services are adequately furnished by a provider other than the municipality seeking the annexation:

- (i) Police and fire protection.
- (ii) Street and road maintenance.

(B) The annexation will have a significant financial impact on the residents or owners of land. The court may not consider:

- (i) the personal finances; or
- (ii) the business finances;

of a resident or owner of land. The personal and business financial records of the residents or owners of land, including state, federal, and local income tax returns, may not be subject to a subpoena or discovery proceedings.

(C) The annexation is not in the best interests of the owners of land in the territory proposed to be annexed as set forth in subsection (f).

(D) This clause applies only to an annexation for which an annexation ordinance is adopted before July 1, 2015. One (1) of the following opposes the annexation:

- (i) At least sixty-five percent (65%) of the owners of land in the territory proposed to be annexed.
- (ii) The owners of more than seventy-five percent (75%) in assessed valuation of the land in the territory proposed to be annexed.

Evidence of opposition may be expressed by any owner of land in the territory proposed to be annexed.

(E) This clause applies only to an annexation for which an annexation ordinance is adopted after June 30, 2015. One (1) of the following opposes the annexation:

- (i) At least fifty-one percent (51%) of the owners of land in the territory proposed to be annexed.
- (ii) The owners of more than sixty percent (60%) in assessed valuation of the land in the territory proposed to be annexed.

The remonstrance petitions filed with the court under section 11 of this chapter are evidence of the number of owners of land that oppose the annexation, minus any written revocations of remonstrances that are filed with the court under section 11 of this chapter.



(F) This clause applies only to an annexation for which an annexation ordinance is adopted before July 1, 2015. This clause applies only to an annexation in which eighty percent (80%) of the boundary of the territory proposed to be annexed is contiguous to the municipality and the territory consists of not more than one hundred (100) parcels. At least seventy-five percent (75%) of the owners of land in the territory proposed to be annexed oppose the annexation as determined under section 11(b) of this chapter.

(f) This subsection applies only to an annexation for which an annexation ordinance is adopted before July 1, 2016. The municipality under subsection (e)(2)(C) bears the burden of proving that the annexation is in the best interests of the owners of land in the territory proposed to be annexed. In determining this issue, the court may consider whether the municipality has extended sewer or water services to the entire territory to be annexed:

- (1) within the three (3) years preceding the date of the introduction of the annexation ordinance; or
- (2) under a contract in lieu of annexation entered into under IC 36-4-3-21.

The court may not consider the provision of water services as a result of an order by the Indiana utility regulatory commission to constitute the provision of water services to the territory to be annexed.

(g) The most recent:

- (1) federal decennial census;
- (2) federal special census;
- (3) special tabulation; or
- (4) corrected population count;

shall be used as evidence of resident population density for purposes of subsection (b)(2)(A), but this evidence may be rebutted by other evidence of population density.

(h) A municipality that prepares a fiscal plan after June 30, 2015, must comply with this subsection. A municipality may not amend the fiscal plan after the date that a remonstrance is filed with the court under section 11 of this chapter, unless amendment of the fiscal plan is consented to by at least sixty-five percent (65%) of the persons who signed the remonstrance petition.

(i) The municipality must submit proof that the municipality has complied with:

- (A) the outreach program requirements and notice requirements of section 1.7 of this chapter; and
- (B) the requirements of section 11.1 of this chapter.



SECTION 15. IC 36-4-3-15.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 15.3. (a) As used in this section, "prohibition against annexation" means that a municipality may not make further attempts to annex certain territory or any part of that territory.

(b) As used in this section, "settlement agreement" means a written court approved settlement of a dispute involving annexation under this chapter between a municipality and remonstrators.

(c) Under a settlement agreement between the annexing municipality and either:

- (1) seventy-five percent (75%) or more of all landowners participating in the remonstrance; or
- (2) the owners of more than seventy-five percent (75%) in assessed valuation of the land owned by all landowners participating in the remonstrance;

the parties may mutually agree to a prohibition against annexation of all or part of the territory by the municipality for a period not to exceed twenty (20) years. The settlement agreement may address issues and bind the parties to matters relating to the provision by a municipality of planned services of a noncapital nature and services of a capital improvement nature (as described in section 13(d) of this chapter), in addition to a prohibition against annexation. The settlement agreement is binding upon the successors, heirs, and assigns of the parties to the agreement. However, the settlement agreement may be amended or revised periodically on further agreement between the annexing municipality and landowners who meet the qualifications of subsection (c)(1) or (c)(2).

(d) A settlement agreement executed after June 30, 2016, is void.

SECTION 16. IC 36-4-3-22, AS AMENDED BY P.L.228-2015, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 22. (a) The clerk of the municipality shall file:

- (1) each annexation ordinance against which:
 - (A) a remonstrance **(in the case of an annexation for which an annexation ordinance is adopted before July 1, 2016)** or an appeal has not been filed during the period permitted under this chapter; or
 - (B) a remonstrance was filed without a sufficient number of signatures to meet the requirements of section 11.3(c) of this chapter, in the case of an annexation for which an annexation ordinance was adopted after June 30, 2015, **and before July 1, 2016;** or
- (2) the certified copy of a final and unappealable judgment



ordering an annexation to take place; with the county auditor, circuit court clerk, and board of registration (if a board of registration exists) of each county in which the annexed territory is located, the office of the secretary of state, and the office of census data established by IC 2-5-1.1-12.2. The clerk of the municipality shall record each annexation ordinance adopted under this chapter in the office of the county recorder of each county in which the annexed territory is located.

(b) The ordinance or judgment must be filed and recorded no later than ninety (90) days after:

- (1) the expiration of the period permitted for a remonstrance **(in the case of an annexation for which an annexation ordinance is adopted before July 1, 2016)** or appeal;
- (2) the delivery of a certified order under section 15 of this chapter; or
- (3) the date the county auditor files the written certification with the legislative body under section 11.2 of this chapter, in the case of an annexation described in subsection (a)(1)(B).

(c) Failure to record the annexation ordinance as provided in subsection (a) does not invalidate the ordinance.

(d) The county auditor shall forward a copy of any annexation ordinance filed under this section to the following:

- (1) The county highway department of each county in which the lots or lands affected are located.
- (2) The county surveyor of each county in which the lots or lands affected are located.
- (3) Each plan commission, if any, that lost or gained jurisdiction over the annexed territory.
- (4) The sheriff of each county in which the lots or lands affected are located.
- (5) The township trustee of each township that lost or gained jurisdiction over the annexed territory.
- (6) The office of the secretary of state.
- (7) The office of census data established by IC 2-5-1.1-12.2.

(e) The county auditor may require the clerk of the municipality to furnish an adequate number of copies of the annexation ordinance or may charge the clerk a fee for photoreproduction of the ordinance. The county auditor shall notify the office of the secretary of state and the office of census data established by IC 2-5-1.1-12.2 of the date that the annexation ordinance is effective under this chapter.

(f) The county auditor or county surveyor shall, upon determining that an annexation ordinance has become effective under this chapter,



indicate the annexation upon the property taxation records maintained in the office of the auditor or the office of the county surveyor.

SECTION 17. IC 36-9-22-2, AS AMENDED BY P.L.228-2015, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 2. (a) The power of the municipal works board to fix the terms of a contract under this section applies to contracts for the installation of sewage works that have not been finally approved or accepted for full maintenance and operation by the municipality on July 1, 1979.

(b) The works board of a municipality may contract with owners of real property for the construction of sewage works within the municipality or within four (4) miles outside its corporate boundaries in order to provide service for the area in which the real property of the owners is located. The contract must provide, for a period of not to exceed fifteen (15) years, for the payment to the owners and their assigns by any owner of real property who:

- (1) did not contribute to the original cost of the sewage works; and
- (2) subsequently taps into, uses, or deposits sewage or storm waters in the sewage works or any lateral sewers connected to them;

of a fair pro rata share of the cost of the construction of the sewage works, subject to the rules of the board and notwithstanding any other law relating to the functions of local governmental entities. However, the contract does not apply to any owner of real property who is not a party to the contract unless the contract or (after June 30, 2013) a signed memorandum of the contract has been recorded in the office of the recorder of the county in which the real property of the owner is located before the owner taps into or connects to the sewers and facilities. The board may provide that the fair pro rata share of the cost of construction includes interest at a rate not exceeding the amount of interest allowed on judgments, and the interest shall be computed from the date the sewage works are approved until the date payment is made to the municipality.

(c) The contract must include, as part of the consideration running to the municipality, the release of the right of the parties to the contract and their successors in title to remonstrate against pending or future annexations by the municipality of the area served by the sewage works. Any person tapping into or connecting to the sewage works contracted for is considered to waive the person's rights to remonstrate against the annexation of the area served by the sewage works. **However, a waiver of the right to remonstrate is effective and**



binding on a landowner or a successor in title only with regard to an annexation for which the annexation ordinance was adopted before July 1, 2016.

(d) This subsection does not affect any rights or liabilities accrued, or proceedings begun before July 1, 2013. Those rights, liabilities, and proceedings continue and shall be imposed and enforced under prior law as if this subsection had not been enacted. For contracts executed after June 30, 2013, the release of the right to remonstrate is binding on a successor in title to a party to the contract only **with regard to an annexation for which the annexation ordinance was adopted before July 1, 2016**, if the successor in title:

- (1) has actual notice of the release; or
- (2) has constructive notice of the release because the contract, or a signed memorandum of the contract stating the release, has been recorded in the chain of title of the property.

(e) Subsection (c) does not apply to a landowner if all of the following conditions apply:

- (1) The landowner is required to connect to the sewage works because a person other than the landowner has polluted or contaminated the area.
- (2) The costs of extension of or connection to the sewage works are paid by a person other than the landowner or the municipality.

(f) Subsection (c) does not apply to a landowner who taps into, connects to, or is required to tap into or connect to the sewage works of a municipality only because the municipality provides wholesale sewage service (as defined in IC 8-1-2-61.7) to another municipality that provides sewage service to the landowner.

(g) Notwithstanding any other law, ~~a waiver of the right of remonstrance executed after June 30, 2015, expires not later than fifteen (15) years after the date the waiver was executed; a waiver of the right to remonstrate is effective and binding on a landowner or a successor in title only with regard to an annexation for which the annexation ordinance was adopted before July 1, 2016.~~

(h) This subsection applies to any deed recorded after June 30, 2015. This subsection applies only to property that is subject to a remonstrance waiver. A municipality shall provide written notice to any successor in title to property within a reasonable time after the



deed is recorded, that a waiver of the right of remonstrance exists with respect to the property."

Delete pages 9 through 15.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1298 as reprinted January 22, 2016.)

HEAD, Chairperson

Committee Vote: Yeas 5, Nays 2.

